

Heldenfels, Leane

From: Erica Brumley [REDACTED]
Sent: Saturday, November 07, 2015 5:37 PM
To: Heldenfels, Leane
Subject: RE: C15-2015-0147 and Outdoor Amphitheater located @ 8901 SH 71 W [REDACTED]

Ms. Heldenfels-

I am writing to request that the Board of Adjustment take the following actions regarding C15-2015-0147 and The Outdoor Amphitheater @ 8901 Hwy 71 West:

1. To request that the Board of Adjustment grant the appeals filed by Hill Country Estates HOA and the Covered Bridge POA.
2. To request that the Board of Adjustment direct staff to forward the TUP appeal filed by Hill Country Estates (HCE) HOA and the Covered Bridge POA to the BOA.

As you may be aware, the following has transpired pertaining to this issue:

In October 2011, City staff administratively approved the site plan submitted by PromiseLand Church West (aka Dream City and now known as "LifeAustin Church") that included the construction of a 1,500 seat outdoor amphitheater on property zoned Rural Residential. Staff interpreted the "religious assembly" use to include outdoor religious assembly and an outdoor amphitheater as principal uses under religious assembly. Staff interpretation also expanded "religious assembly use" to include musical and theatrical performances as well as benefit events at which tickets can be sold. Staff's "interpretation" was made in a December 2008 private email between Greg Guernsey, Director of the City's Neighborhood Planning & Zoning Department, to a representative of LifeAustin Church. Neighbors first learned of the 2008 email in 2011. Hill Country Estates HOA (HCE HOA) filed an appeal objecting to Staff's interpretation in October 2011. Staff refused to send the appeal to the BOA claiming the appeal was not "timely." Staff said the "interpretation" had to be appealed within 20 days of when it was made (December 2008), although no notice of the "interpretation" was made to anyone other than LifeAustin. HCE HOA and Covered Bridge Property Owners Association (CB POA) sued Director Guernsey and the City to require them to send appeal to the BOA as required by State law and City code, and to overturn interpretations that exceeded staff authority. The neighborhood associations did not sue LifeAustin. City filed motion to dismiss lawsuit asserting the neighborhoods have "no standing" to sue the City and Guernsey. A Trial court granted City's motion to dismiss lawsuit on technical grounds in May 2013. Neighborhoods appealed to Court of Appeals. In May 2015, the Court of Appeals overturned trial court decision as to HCE HOA. Court of Appeals' opinion said that trial court cannot decide standing to sue until BOA first decides standing issue.

City's Approval of Outdoor Amphitheater Building Permit

HCE HOA and CB POA filed appeal of City's and Guernsey's "interpretation" approving a building permit for LifeAustin's outdoor amphitheater. Staff refused to forward building permit appeal to BOA. In late 2012, staff sought an amendment to City Code Section 25-2-921(C) to authorize the building official to issue temporary use permits (TUP) in all residential zoning districts for outdoor benefits and festivals held on property used for education and religious assembly purposes. In November 2013, staff issued a new interpretation of Section



25-2-921(C) in a memo that said, due to non-enforcement, this code section no longer prohibits outdoor benefits and festivals on church and school property. HCE HOA and CB POA filed appeal of City's and Guernsey's "interpretation" of the TUP in December 2013 ("TUP Appeal"). Staff refused to forward TUP Appeal to BOA claiming the November 2013 interpretation did not contain any "appealable" decisions. Since November 2013, outdoor benefits and festivals held on property used for education and religious assembly purposes have been allowed as interpreted in the November 2013 memo.

Two of Three Appeals Have Now Been Allowed to Proceed. Staff agrees to send the site plan and building permit appeals to BOA but not TUP Appeal.

Primary Appeal Issues for Site Plan and Building Permit Appeals

Director Guernsey approved the outdoor amphitheater as a religious assembly use. He said the zoning code did not make a distinction between indoor and outdoor religious assembly. This is incorrect. Section 25-2-921(C) of the zoning code prohibits all outdoor assembly(public, historic and religious), including benefits, festivals and other events likely to attract a mass gathering of people in the RR to SF-3 zoning districts. The LifeAustin property is zoned RR. Section 25-2-921(C) of the zoning code authorizes the City Building Official to issue temporary use permits for outdoor gatherings of up to 50 people in SF-4 and less restrictive zoning districts. To have a gathering of more than 50 people, the property must be located in a non-residential zoning district.

As a resident of the Covered Bridge Neighborhood, I am concerned that the Neighborhoods did not receive due process in a timely manner pertaining to this issue and that staff did not have the authority to administratively approve LifeAustin's construction of an outdoor amphitheater. Ticketed concerts, plays and other forms of entertainment are not religious assembly. The city should enforce the zoning code as it is plainly written. City staff's interpretations set a precedent to allow all church grounds to become outdoor entertainment venues. If the code says non-residential zoning is required to have an outdoor event with more than 50 people, how can staff approve gatherings of 1,500 people in the RR zoning district? The zoning code requires a "conditional use permit" (and public hearings) to be obtained before property owners can hold graduations, theatrical plays/productions, meetings, concerts, recitals, ballets, family movie nights, and other events in an event center. This requirement has been ignored by staff. The amphitheater should be enclosed. Rural Residential zoning means a rural and quiet neighborhood. The LifeAustin outdoor amphitheater is not a residence and it is not quiet. I have been able to hear concerts from this venue in my backyard and I live almost at the opposite end of the Covered Bridge neighborhood from this amphitheater. This outdoor amphitheater will definitely harm property values in the future. The approval of the outdoor amphitheater violates the letter and the spirit of the zoning code.

Thank you for your consideration of this request.

Sincerely,

Erica Brumleve
7301 Black Mountain Drive
Covered Bridge Neighborhood
Austin, TX 78736

Heldenfels, Leane

From: Janet Stak [REDACTED]
Sent: Friday, November 06, 2015 5:27 PM
To: Heldenfels, Leane
Subject: Case #:C15-2015-0147

RE: Case: C15-2015-0147
Life Austin-8901 SH71 West

Dear Ms. Heldenfels,

My husband and I have lived in Hill Country Estates for 21 years. We loved it because it was a small neighborhood, peaceful and quiet and away from the city lights and sounds. We have enjoyed that serenity all of these years until the last 4 or so years when our neighborhood found out that Life Austin Church was planning on building an amphitheater that would highly impact our peaceful enjoyment of our neighborhood. Now that it has been built, might I add without the proper channels of approval and against city zoning laws, it is definitely impacting our peaceful and quiet enjoyment.

I live at the far end of our neighborhood, furthest away from the venue. I opened my front door one Thursday night in particular and it sounded like the music was coming from a house on my cul-de-sac it was so loud. It took me a few minutes of looking up the street (which only has 9 houses on it) to realize it was coming from the amphitheater at Life Austin. I could tell because when the music stopped I could here them talking to the audience. I couldn't believe how loud it was and felt sorry for my neighbors living on the side of the neighborhood closest to the venue. One neighbor who lives on the closer proximity side recently told me they had difficulty getting their very young children to sleep on a Thursday night because the music was so loud and it was literally rattling the windows in her house. I personally have called and registered a noise level complaint to Austin 311 on several occasions.

We were denied our proper and legal rights in regards to this venue, and based on the City of Austin zoning laws the amphitheater should not have been built on this site. We ask that you require them to tear it down or enclose it. Rural Residential zoning means a rural and quiet neighborhood. We ask that the Board of Adjustment **grant** the appeals filed by Hill Country Estates HOA and the Covered Bridge POA. We ask the Board of Adjustment to direct staff to forward the TUP appeal filed by Hill Country Estates HOA and the Covered Bridge POA to the BOA.

This situation could also harm our property values. We have lived here too long to have this disrupt our lives, yet it is doing so. We demand this case be strongly considered by the BOA and ask their consideration of the laws violated be properly dealt with at this time.

Thank you for your time and consideration

*Janet & Doug Stakes
9609 Streamside Dr.
Austin, TX 78736
512-940-2422*

Heldenfels, Leane

From: KRISTIN DANSON [REDACTED]
Sent: Friday, November 06, 2015 4:28 PM
To: Heldenfels, Leane
Subject: Reference to case # C15-2015-0147 - Life Austin Amphitheatre at 8901 SH 71 W [REDACTED]

Ms. Heldenfels,

I am one of the homeowners in Hill Country Estates, and own 6801 Bright Star homestead, and 6805 property. We greatly appreciate the BOA taking the time to hear the issues with the Life Austin Amphitheatre. I have lived in this neighborhood since 1999, and for the first time in the 16 years, I have considered moving out of the neighborhood. This summer and fall, with the numerous concerts and sound checks, I have not wanted to be home on Friday, Saturday, and Sundays. A time when typically I get to relax with family and friends by grilling out, lounging by the pool, and instead, I found myself trying to be gone from my home due to the noise of the Amphitheatre. We've had a church at the corner of Midwood Pkwy & 71 for 15 years, and have had no issues, so be clear this is not about a religious venue. With the Life Austin Amphitheatre at 8901 SH 71 West, it has completely disrupted our neighborhood. The music is so disturbingly loud that I can hear the lyrics clearly inside and outside my house, the bass thumps in my master bedroom and has wakened me from sleep, as well as the crowd cheering and performers yelling in the microphones. It's not pleasant. When I want to go to a concert, I go to enclosed arenas that are not in a residential areas, e.g. the Moody Theatre.

We ask that our residential area be respected. If I were to have a band at my house every weekend with hundreds of people, I am quite certain that Austin PD, the community, and my neighbors would all have something to say about it, and most definitely shut it down.

I am asking, that the BOA listen to our complaints and put themselves in our shoes, and grant the appeals filed by Hill Country Estates HOA and Covered Bridge POA, as well as, direct staff to forward the TUP appeal filed, before our property values go down, and our quality of a peaceful life in our little neighborhood goes away completely.

Please understand that in:

- section 25-2-921 of zoning code prohibits all outdoor assembly (public, historic and religious), including benefits, festivals, and other events likely to attract a mass gathering. Life Austin is zoned RR. (I would say 1500+ people is a mass gathering)

The approval of the amphitheatre has been such a violation of our civil liberties, the letter and spirit of the zoning code, and simply our quality of life.

I invite anyone on the committee to come to my house at 6801 Bright Star Lane when a concert is in play to understand the severity of this.

Thank you for your time and understanding.
Kristin Danson

Heldenfels, Leane

From: Maria Reinke [REDACTED]
Sent: Wednesday, November 04, 2015 8:55 PM
To: Heldenfels, Leane
Subject: LifeAustin: 8901 SH 71 West, case number: C15-2015-0147

Hello,

I am so happy to hear that all is not lost in the case against the Life Austin Amphitheater.

Our home is on Covered Bridge Drive and we get a "lovely view" of the metal church building that houses the Life Austin fellowship. As I write this, it strikes me that this building is a perfect example of pastor Randy Phillips' duplicitous nature. The front façade of this building is very attractive, but look in the back and you see a cold shell. However, as unsightly as the church building is, my real complaint is the amphitheater. I do not impose my music on my neighbors and have no wish to have Life Austin impose their music on me. I am just a hardworking person who looks forward to enjoying my own backyard on the weekend, in the peace and serenity that comes from nature's songs, be it coyotes or cardinals - not loud music.

Please consider rescinding the permit for the amphitheater.

Thanks,
Maria Reinke
512-638-6609

Heldenfels, Leane

From: Teresa Garcia [REDACTED]
Sent: Wednesday, November 04, 2015 6:25 PM
To: Heldenfels, Leane
Subject: Re: case number: C15-2015-0147 at 8901 SH 71 West

Ms Heldenfelds:

As a resident of Westview Estates whose quality of life has been severely negatively impacted by the gross zoning violations of the Life Austin Church's outdoor amphitheater, I am asking you to please communicate to the Board of Adjustments that the actual community surrounding the church property is not enhanced or in any way "blessed" by the amplified outdoor events. Please grant the appeals requests filed by Hill Country Estates HOA and the Covered Bridge POA, which they filed not only on their behalf but on the behalf of all of the neighborhoods that surround Life Austin Church. I also ask that the Board of Adjustments staff direct the TUP appeal to the Board of Adjustments. We intentionally moved out to a rural residential area to be able to enjoy peace and quiet. If I had wanted to live next door to a live music venue, I would have moved to Belterra near Nutty Brown Cafe.

Respectfully,
Teresa Garcia

Heldenfels, Leane

From: Charlsa gmail [REDACTED]
Sent: Wednesday, November 04, 2015 7:04 AM
To: Heldenfels, Leane
Subject: Case C15-2015-0147 (amphitheater at 8901 SH 71 West)

This message concerns various pending matters regarding the LifeAustin amphitheater located at 8901 SH 71 West (your case number C15-2015-0147). Although I now live in the Zilker neighborhood, I owned a home and lived in Hill Country Estates from 1994 to 2011. The issues surrounding the amphitheater began when I was an officer in Hill Country Estates Homeowners Association ("HCEHOA"); and as a result of the City's inappropriate handling of filings through these past years, these same issues can now have a huge negative impact on residential properties throughout the greater Austin area.

Accordingly, I am respectfully asking the Board of Adjustment to take several actions:

- Agree to the neighborhoods' request for postponement (from November 9 to December 9);
- Grant the site plan and building permit appeals filed by HCEHOA and Covered Bridge POA ("CBPOA"); and
- Instruct City staff to forward the Temporary Use Permit appeal filed by HCEHOA and CBPOA to the Board of Adjustment.

Thank you.

Charlsa Bentley (78704)

***If not for the dark of night,
there would be no stars. ***

Heldenfels, Leane

From: Don Emerson [REDACTED]
Sent: Tuesday, November 03, 2015 9:49 PM
To: Heldenfels, Leane
Subject: C15-2015-0147 / 8901 SH 71 West Life Austin Outdoor Amphitheater

re: case number: C15-2015-0147 / 8901 SH 71 West Life Austin Outdoor Amphitheater

Ms. Heldenfels,

I thank you for this opportunity to share our experience living near the Life Austin Outdoor Amphitheater.

I have two children in school (grades 4 and 8), and the loud amplified rock music emanating from Life Austin's Outdoor Amphitheater has been so loud *inside* our house that it's distracted my children from both homework and sleep. Loud thumping bass which has reverberated off our windows like a drum.

While this *was* a quiet rural residential neighborhood, and I don't understand how Life Austin has been allowed to build a concert venue within a rural residential zone, and continues to perform loud performances with no concern for it's neighbors.

I don't object to Life Austin joining the neighborhood, but to have loud, amplified concerts and performances, particularly after dark on school nights, is unreasonable.

There would be no complaint if the church took the money from their ticketed amplified performances and simply enclosed their amphitheater. Likewise non-amplified performances before sundown would be raise no objection. We should not however be subjected to such noise in our neighborhood and residences. We wish and deserve to enjoy quiet in our yards and homes again.

Please grant the appeals by the Hill Country Estates HOA and the Covered Bridge POA, and direct their TUP appeal to the Board of Adjustment.

This is a residential neighborhood, and we deserve some peace.

Thank you, Don Emerson

Heldenfels, Leane

From: Marquis, Terry [REDACTED]
Sent: Tuesday, November 03, 2015 9:42 PM
To: Heldenfels, Leane [REDACTED]
Subject: C15-2015-0147 BOA HEARING ABOUT LIFE AUSTIN OUTDOOR AMPHITHEAT
8901 SH 71 West

Hello Leane,

We just wanted to write a quick email concerning this case.

1. This venue is very disruptive to the peace and quiet of our rural residential neighborhood. The events prevent the enjoyment of our home where we have lived for 26 years. As an example, our pets howl and cry during concerts. We can hear most events in our living room, so our home is not even a safe haven from this noise pollution.
2. Please grant the appeals filed by Hill Country Estates HOA and the Covered Bridge POA.
3. Please also direct staff to forward the TUP appeal filed by Hill Country Estates HOA and the Covered Bridge POA to the BOA.

Thank You for your attention,

Janet and Terry Marquis
6804 Bright Star Lane
AUS TX 78736

Heldenfels, Leane

From: CR Miertschin [REDACTED]
Sent: Tuesday, November 03, 2015 9:05 PM
To: Heldenfels, Leane
Subject: Case number: C15-2015-0147, LifeAustin: 8901 SH 71 West

Dear Ms. Heldenfels,

We have been residents of Hill Country Estates since June 1990, and we are writing in regard to the subject case and facility.

This is our retirement home and we selected this subdivision because of the large lots, privacy, easy access to our church, and the hill country atmosphere; which is unusually quiet for a residential neighborhood and includes an abundance of wildlife.

But now, this inviting and treasured way of life has been destroyed by loud music which can be heard indoors, which is a total disruption of the peace and quiet which we have for so long enjoyed in our senior years.

To allow the construction of an amphitheater in rural residential zoning is shocking and unbelievable. But, this is what happened and this is not right, and apparently major errors were made during the planning and permitting process.

To help make this right, we ask the Board of Adjustment to **grant** the appeals filed by Hill Country Estates HOA and the Covered Bridge POA, and to direct staff to forward the TUP appeal filed by Hill Country Estates HOA and the Covered Bridge POA to the BOA.

Sincerely,

CR and Amanda Miertschin
7000 Bright Star Lane
Austin, TX 78736
512-288-5385

Heldenfels, Leane

From: Beki Halpin [REDACTED]
Sent: Wednesday, November 04, 2015 1:38 PM
To: Heldenfels, Leane
Subject: Case #C15-2015-0147 [REDACTED]

Regarding Case #C15-2015-0147 and the amphitheater at 8901 SH 71 West,

I am asking that the BOA 1) grant the appeals filed by Hill Country Estates HOA and the Covered Bridge POA.

and 2) direct staff to forward the TUP appeal filed by Hill Country Estates HOA and the Covered Bridge POA to the BOA.

The process regarding the permitting of this amphitheater as a place of worship when it is really a huge outdoor entertainment venue that blasts unwanted sound out into the neighborhoods was non-transparent and likely illegal. Neighborhoods need to feel that city staff regards the laws and codes of the city as binding for large developers and for religious institutions as well as the ordinary resident.

This could set a precedent that allows all religious properties to become outdoor entertainment venues regardless of where they are located.

Thank you,
Beki Halpin
7107 Stone Ledge Circle
Austin, TX 78736

Heldenfels, Leane

From: Jim Buck [REDACTED]
Sent: Wednesday, November 04, 2015 12:58 PM
To: Heldenfels, Leane
Cc: Eli del Angel; Mike Kirk; Info (Ellen for Austin)
Subject: Life Austin Amphitheater Case: C15-2015-0147

Ms. Heldenfels:

The Covered Bridge POA contends that they have "no issues" with the "entity" however, their actions speak louder than words.

I was appointed to their Board of Directors for nearly a year with no issues and then it was casually mentioned that I was a member of Life Austin. Things deteriorated quickly, I was ridiculed, I was challenged and accused of being an operative of the church. To this day I cannot ask for information without having to confirm for the POA Board that the information will not be provided to the church. This is of particular note as the POA Board repeatedly states "we have no issue with the church..." Yet, they kicked me off for having a different philosophical perspective... I'd would argue they certainly view Life Austin from an adversarial perspective. They didn't view me any different until I disclosed I was a member of Life Austin, that is discriminatory.

As a resident of Covered Bridge I respectfully request the Board of Adjustment deny the appeals filed by Hill County Estates and Covered Bridge Property Owners Associations respectively. Further, I would request that the hearing on the site plan proceed as scheduled on November 9th.

James W. Buck
President
Texas Legal
7500 Rialto Blvd. | Building One | Suite 120 | Austin, TX 78735

Office: 512.327.1372 Fax: 512.327.0163
www.texaslegal.org



****TLPP is now Texas Legal! Please update your contact information with my new email address. Thank you.***

Heldenfels, Leane

From: [REDACTED]
Sent: Wednesday, November 04, 2015 12:36 PM
To: Heldenfels, Leane
Subject: Amphitheater concerns

My husband and I have lived in Hill Country Estates for 25 years. It has been a lovely, peaceful neighborhood until Life Austin built an amphitheater in the middle of our neighborhoods. Our neighborhoods have been here for many years before the amphitheater was built. When they have a concert, we can hear the music and the cheering very loudly on our property. We can't sit outside and enjoy a nice evening without having the intrusion of their loud music. In reference to the case #C15-2015-0147 and Life Austin Church Amphitheater at 8901 SH 71 West, please grant the appeals filed by Hill Country Estates HOA and the Covered Bridge POA. Please have your staff forward the TUP appeal filed by Hill Country Estates HOA and the Covered Bridge POA to the BOA. We would love to enjoy the outdoors and be able to sit in enjoyment of nature again.

Thank you very much,

Dixie Schroeder
7005 Midwood Parkway
Austin, Texas 78736

Heldenfels, Leane

From: John Abel
Sent: Wednesday, November 04, 2015 12:26 PM
To: Heldenfels, Leane
Subject: RE: Case # C15-2015-0147 8901 SH 71 West

Ms. Heldenfels,

I have concern of Case C15-2015-0147 concerning the amphitheater at 8901 SH 71 West.

When I built my home on Midwood Pkwy 22 years ago it was with the understanding that the zoning of the property in my area would prevent something like the amphitheater nearby from being built and from interfering with the rural neighborhood existence I was buying into.

While I knew urban sprawl would someday touch our area, I never suspected that City staff would be able to ignore city code and the residents affected by choosing unilaterally to form their own interpretation of City code.

Now I am enduring with regularity, rock concerts and other loud assemblies keeping me awake on event nights up to a late hour for me. I am normally somewhat early to bed and early to rise.

My feeling is that it is a classic example of a corrupt bureaucracy when one civil servant or a small group of civil servants can ignore codes and laws and act from their own imaginations or in their own self-interests.

Furthermore, it is my understanding that these unlawful acts by the City staff can be reversed by the City of Austin Board of Adjustment. I sincerely hope that the BOA does the just thing by reversing the actions of what I now consider to be an unlawful City staff.

Sincerely,

John Abel
6807 Midwood Pkwy.
Austin, Tx. 78736

PS I'm 63 years old and while I love rock music, I can no more tolerate a concert in my back yard than I would my neighbor's kid playing his stereo at top volume in his driveway outside my bedroom window at 11pm.

Heldenfels, Leane

From: david VanDelinder [REDACTED]
Sent: Wednesday, November 04, 2015 11:35 AM
To: Heldenfels, Leane
Subject: Subject: Case C15-2015-0147 (amphitheater at 8901 SH 71 West)

This message concerns various pending matters regarding the LifeAustin amphitheater located at 8901 SH 71 West. Despite our efforts as neighbors to reach some accommodation with Life Austin Church, today neighborhoods surrounding the church amphitheater are exposed to noise pollution that is reducing our quality of life and our property values. Please support Austin neighborhoods.

I am respectfully asking the Board of Adjustment to take several actions:

- Agree to the neighborhoods' request for postponement (from November 9 to December 9);
- Grant the site plan and building permit appeals filed by HCEHOA and Covered Bridge POA ("CBPOA"); and
- Instruct City staff to forward the Temporary Use Permit appeal filed by HCEHOA and CBPOA to the Board of Adjustment.

Thank you.

David VanDelinder
6800 Midwood Parkway
Austin, Texas 78736
(512) 762-1519
[REDACTED]

Heldenfels, Leane

From: Alan Watts [REDACTED]
Sent: Wednesday, November 04, 2015 11:22 AM
To: Heldenfels, Leane
Subject: LifeAustin amphitheater

RE: LifeAustin Amphitheater, 8901 SH 71 West.
Case number: C15-2015-0147

Hi,

My name is Alan Watts and I have lived on Thomas Springs Road since 1999. My house is less than 4,000' (and almost exactly perpendicular) to the LifeAustin amphitheater and it has been an unwelcome addition to my peaceful, rural homestead. This type of entertainment venue does not belong in this area. I ask the Board of Adjustments to grant the appeals and forward the TUP appeal filed by the similarly affected neighborhoods of Hill Country Estates HOA and Covered Bridge HOA.

I set up a website to track noise complaints from adjacent neighbors: <http://www.datax.com/lifeaustin/>

As you can see, there are many others affected besides the two neighborhoods. This issue needs to be resolved as our quality of life is suffering.

Thanks,
Alan Watts

101/563
C15-2015-0147

Heldenfels, Leane

From: alfred stlouis [REDACTED]
Sent: Wednesday, November 04, 2015 10:34 AM
To: Heldenfels, Leane
Subject: Life Austin Noise Permit

I live in Westview Estates, just about 1/2 mile from this Church/Commercial Music venture, and I strongly oppose the permit which allows these folks to blast our neighborhood with loud, amplified music! I support the several surrounding neighborhoods who are requesting the permit to be revoked. The Church could easily enclose the amphitheatre, but they apparently insist on sound blasting us in hopes we will be converted and join in on the Rock music.

Heldenfels, Leane

From: Matt Julian [REDACTED]
Sent: Tuesday, November 03, 2015 8:23 PM
To: Heldenfels, Leane
Subject: Case Number: C15-2015-0147
Attachments: LifeChurch9-3-15.wav

Dear Ms. Heldenfelds,

I am a resident of Hill Country Estates and am writing on behalf of my family with regard to the outdoor amphitheater at Life Austin Church at 8901 SH 71 W., Austin, TX.

Though our residence is located approximately 1 mile from the amphitheater we are severely impacted by the sound emanating from the venue whenever a live event is held there. For your edification, I have attached a small recording of one such event taken from the top of our driveway. I hope you will give a listen.

By way of this mail, I would like to request and encourage that the Board of Adjustment grant the appeals filed by Hill Country Estates HOA and the Covered Bridge POA. I would also like to ask the Board of Adjustment to direct staff to forward the TUP appeal filed by Hill Country Estates HOA and the Covered Bridge POA to the BOA.

I thank you advance for your assistance.

Best regards,
Matt Julian
6708 Bright Star Lane
Austin, TX 78783
512-586-7035
[REDACTED]

Heldenfels, Leane

From: Terrie Raymon [REDACTED]
Sent: Tuesday, November 03, 2015 6:33 PM
To: Heldenfels, Leane
Subject: Case C15-2015-0147 / 8901 SH 71 West - LifeAustin

Importance: High

Dear Ms. Heldenfels-

It is my understanding you are the staff liason for the Austin Board of Adjustment in connection with the above referenced matter. I wish to express my support that the Board of Adjustment:

- 1) Grant the appeals filed by Hill Country Estates Homeowners Association and the Covered Bridge Homeowners Associations.**
- 2) Direct City staff to forward to the Board of Adjustment the TUP appeal filed by Hill Country Estates Homeowners Association and the Covered Bridge Homeowners Associations.**

I oppose the outdoor amphitheater and request that a review by the Austin Board of Adjustment result in suspension and reversal of all building permits and/or occupancy permits in Case C15-2015-0147 / LifeAustin - 8901 SH 71 West.

For over 5 years the respective Homeowners Associations for Covered Bridge and Hill Country Estates have maintained regular contact with the City Council and Planning and Zoning Department, registering as materially affected parties in order to submit orderly input to the process and voice concerns. The original site plan was not approved in the normal and routine manner, and instead managed by City staff using private emails. The City should be accepting equal input from both sides of this issue, but for reasons unknown it has clearly maneuvered and swerved to avoid cooperation with the neighborhoods, disallowing any public input or hearings.

The negative impact of a 1,500 person outdoor entertainment facility within a few hundred feet of two (soon to be three) residential neighborhoods should be obvious. Safety. Noise. Traffic. I would like to add that I have personally attended a public meeting where the LifeAustin Executive Pastor announced intent to use the amphitheater for amplified, outdoor music events at least twice a month, and would not need any conditional use permits to operate! How could LifeAustin reasonably expect to prevent adverse impact to homes adjacent to their property from sound levels generated by an outdoor event staged to be heard by 1,500 attendees?

I ask the Austin Board of Adjustment to at last consider the long denied appeals of the homeowners of Covered Bridge and Hill Country Estates and also the following:

- 1) Rural Residential zoning means a rural and quiet neighborhood;
- 2) LifeAustin outdoor amphitheater is not a residence. It is a for-profit, commercial, entertainment facility. It is not quiet;
- 3) Initial approval by City staff of the amphitheater ignored outdoor assembly zoning regulations pertaining to outdoor assembly (Section 25-2-921C).

I01/566

Regards-

Terrie Raymond
7004 Covered Bridge Drive
Austin, Tx 78736



Heldenfels, Leane

From: Carolyn Barkley [REDACTED]
Sent: Tuesday, November 03, 2015 5:54 PM
To: Heldenfels, Leane
Subject: Case Number C15-2015-1047, LifeAustin 8901 SH71 West [REDACTED]

Board of Adjustment, City of Austin:

Please grant the appeals filed by Hill Country Estates HOA and the Covered Bridge POA. And please direct the staff to forward the TUP appeal filed by Hill Country Estates HOA and the Covered Bridge POA to the BOA.

The Staff did not have the authority to administratively approve LifeAustin's construction of an outdoor amphitheater. Ticketed concerts, plays and other forms of entertainment are not religious assembly.

Staff's interpretations set a precedent for all church grounds to become outdoor entertainment venues.

The subdivisions of Hill Country Estates and Cover Bridge were in existence before the LifeAustin's amphitheater were approved and built. Now, we have lost our right to a peaceful and quiet life.

The "music" is so loud in our homes and surrounding property, we cannot talk to each other, the children cannot sleep, we are forced to listen to music we do not choose to hear and the value of our homes has decreased.

Section 25-2-921 (C) of the zoning code prohibits all outdoor assembly, including benefits, festivals and other events likely to attract mass gatherings of people in the RR to SF-3 zoning districts. LifeAustin is zoned RR.

Please grant the appeals filed by Hill Country Estates HOA and Covered Bridge HOA so we can have peace and quiet again in our subdivisions and direct Staff to forward the TUP appeal to the BOA.

Sincerely,
Carolyn Barkley
PO Box 92169
Austin, TX 78709-2169
[REDACTED]

Heldenfels, Leane

From: Barton Wilder R [REDACTED]
Sent: Tuesday, November 03, 2015 5:53 PM
To: Heldenfels, Leane
Subject: Life Austin Outdoor Amphitheater [REDACTED]

Dear Ms Heldenfels,

I have lived in Westview Estates since 1997. I moved into this neighborhood, with its tranquility and peace, BECAUSE it was an established rural area where my family and I could enjoy the privacy and quietude it provided. We have narrow streets and no street lights so it's quite lovely at night. One can hear coyotes barking and the call of Great Horned Owls. Although there is some light pollution that spills over from the city, it is still a place where one can star watch in the evening, as we often do.

Now, our tranquil, rural residential neighborhood has been upended by the intrusion of a mammoth church campus and its enormously loud amphitheater that seats more than a thousand. The church sponsors weeknight for-profit rock concerts. I note that their website currently lists only free events. This is a ruse, as that has certainly not been the case in the past several years.

I feel strongly that the City employee who approved this travesty made a grave mistake, totally failing to take into consideration the concerns of the neighbors who must endure this organization's assaults on our ears and our patience. No one should have their rights to live undisturbed removed by a bureaucrat who either failed to grasp the intentions of Life Austin or chose to ignore the rights of the many neighbors who pre-existed.

I hope you will consider my rights and the rights of my neighbors to live undisturbed and unmolested by music that invades my home. Please reverse the decision regarding this organization's permitting. The case # is C15-2015-0147. LifeAustin Church is located at 8901 SH 71 West.

Most Sincerely,

Laura L. Barton

Heldenfels, Leane

From: Sharon Figaro [REDACTED]
Sent: Tuesday, November 03, 2015 3:48 PM
To: Heldenfels, Leane; 'Greg Figaro (g.figaro@casecounselors.com)'
Subject: Case C15-2015-0147 [REDACTED]



Leane,

We built our house in Hill Country Estates more than 20 years ago. What attracted us to the neighborhood was the serenity, wildlife, and friendly neighbors. That has all changed since the Life Austin Amphitheater at 8901 SH 71 West has been allowed to book concerts that seat up to 1500 people. The music can be heard not only outside but INSIDE our home as well. We hear the guitars, bass, and lyrics. If a concert is booked we cannot go to sleep until the concert is over. Our serenity is now taken over by loud music, the wildlife is diminishing and the church is by no means friendly neighbors.

We are confused and frightened that this facility can be zoned and allowed for such concerts. Not only for our neighborhood but other neighborhoods in Austin. I would hate for this to happen to our friends and family who live in Austin, which includes you and your family. We still believe Austin is a great place to live and that we look after each other.

Please help us make this right and fair to all neighbors.

Sharon & Greg Figaro
6911 Bright Star Lane
Austin, Texas 78736

Heldenfels, Leane

From: Frank [redacted]
Sent: Tuesday, November 03, 2015 2:09 PM
To: Heldenfels, Leane
Subject: Case number: C15-2015-0147 concerning LifeAustin: 8901 SH 71 West
Importance: High

Ms. Heldenfels,

Case number: C15-2015-0147 concerning LifeAustin: 8901 SH 71 West

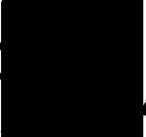
My name is Frank Bongiorno and live at 9404 Summer Sky Drive Austin, TX 78736. I am located partially within the Austin City Limits.

My Homestead:

Table with columns: Account #, Owner Name, Ownership Information (Mailing Address), Legal Description, Taxing Unit, 2014 Tax Year Detail (Assessed Value, Net Taxable Value, Base Due, Penalty/Interest, Attorney Fees/Other Fees). Includes a total row at the bottom.

I also own the adjoining lot within the City:

Account #	Owner Name	Ownership Information		Legal Description
		Mailing Address		
01015002120000	BONGIORNO FRANK	9404 SUMMER SKY DR AUSTIN, TX 78736-2423		LOT 2 BLK E HILL COUNTRY PHS II-A



Taxing Unit	2014 Tax Year Detail				
	Assessed Value	Net Taxable Value	Base Due	Penalty/Interest	Attorney Fees/Other Fees
AUSTIN ISD	\$42,000.00	\$42,000.00	\$0.00	\$0.00	\$0.00
CITY OF AUSTIN (TRAV)	\$4,200.00	\$4,200.00	\$0.00	\$0.00	\$0.00
TRAVIS COUNTY	\$42,000.00	\$42,000.00	\$0.00	\$0.00	\$0.00
TRAVIS COUNTY ESD #3	\$37,800.00	\$37,800.00	\$0.00	\$0.00	\$0.00
TRAVIS CENTRAL HEALTH	\$42,000.00	\$42,000.00	\$0.00	\$0.00	\$0.00
ACC (TRAVIS)	\$42,000.00	\$42,000.00	\$0.00	\$0.00	\$0.00
Total			\$0.00	\$0.00	\$0.00

Back

Note: I did partake in the sound test but was unable to access any information after logging into the website as directed so I consider this test unacceptable and should be redone. I was not the only resident within my neighborhood who was unable to review this information during the test. **This is was never resolved.**

I do work from home and was unable to concentrate during the day before, during and after the testing was done because of the loud music from the church. The sound levels were bouncing on my windows and I found it impossible to concentrate on my work. I am certain that continued music blasting will effect my work and thus my ability to provide for my family.

I also can't imagine to have to endure the constant bass and high pitches of the noise while trying to enjoy life with my family anywhere within or outside my residence. This will undoubtedly create a higher stress level on time off when I should be relaxing and makes it harder to concentrate during my work hours. As it stands now, I can hear the music playing within the church from my front and backyard in the early hours of the morning. If the City chooses to keep allowing an outside music venue for church and/or private events would be catastrophic to my life. I would undoubtedly have to sell the house I have been in for so long and love and take a lower price since **my home and property value will depreciate.**

It seems absurd that this type of noise pollution should be allowed around our peaceful neighborhood when **that land was never zoned to be allowed.** I have been living at this location for approximately 20 years and never before until now that I **fell like my rights to live in a peaceful environment have been violated** so much by this noisy nuisance.

Map of locations:



Please feel free to contact me with any questions or concerns.

Frank & Kristina Bongiorno
9404 Summer Sky Drive
Austin, TX 78736
(512) 288-0637

Heldenfels, Leane

From: Daloma Armentrout [REDACTED]
Sent: Tuesday, November 03, 2015 1:30 PM
To: Heldenfels, Leane
Subject: LifeAustin Amphitheater, 8901 SH 71 West, C15-2015-0147

re: C15-2015-0147
LifeAustin Amphitheater, 8901 SH 71 West

Dear Ms. Heldenfelds:

I am requesting that the Board of Adjustment grant the appeals filed by the Hill Country Estates Homeowners Association and the Covered Bridge Property Owners Association in the above appeal pending before the BOA.

LifeAustin's outdoor amplified events are clearly prohibited by code. Their outdoor amphitheater is on property zoned Rural Residential. RR zoning means a rural and quiet neighborhood. City Staff did not have the authority to administratively approve LifeAustin's construction of an outdoor amphitheater. The City should enforce the zoning code as it is plainly written. Unfortunately, Staff's interpretations set a precedent to allow all church grounds to become outdoor entertainment venues.

Either we have land use and zoning restrictions to protect neighborhood values, and the property tax base, or we do not. Planning and Development assured us that no amphitheater could be built with administrative approval, but that a zoning case (public hearings) would be required. Despite that assurance based on the letter, spirit, and history of code, City Staff then privately (and without public process), created interpretations that gutted our zoning protections. Neighborhoods are being subjected to frequent

professionally amplified entertainment events, and being deprived of peace, the quiet enjoyment of our property, and due process.



I also respectfully request that the Board of Adjustment direct staff to forward the temporary use permit appeal filed by the Hill Country Estates HOA and the Covered Bridge POA to the BOA for its review and determination.

Thank you for your consideration.

Daloma Armentrout



Heldenfels, Leane

From: Roy Shamir [REDACTED]
Sent: Tuesday, November 03, 2015 12:25 PM
To: Heldenfels, Leane
Subject: Case C15-2015-0147 regarding Life Austin at 8901 SH 71 West
[REDACTED]

Dear Ms. Heldenfels,

I am writing regarding the upcoming BOA hearing on the subject of the Life Austin amphitheater. I hope I can help shed some light on one affected neighbor's point of view.

Over the last several years, I have witnessed repeated attempts by our neighborhood to protest the permit, construction and operation of the Life Austin amphitheater. To date, these attempts were fruitless, leading to an intolerable situation in our neighborhood.

We chose to live in the suburbs of Austin so that we can create a safe and peaceful space for our family of 5. We moved from a busy urban area of Israel straight to our house in Bright Star Lane 10 years ago, and were immensely thankful for our fortune to be able to live with such peace and quiet in the beautiful Austin area.

However, the operation of the amphitheater has become a serious hindrance to our peace and quiet. Some of the louder concerts can be heard clearly in our back yard, and in the children's bedrooms upstairs. We have a 6 year old son whose bedtime routine starts at 7:30-8:00PM. So even if the concert ends at 9PM, this is still a serious disturbance. We are relatively fortunate: the noise level reaching us is not nearly as high as some other residents are experiencing; when taking walks in the neighborhood, several times I was appalled to witness the incredibly loud sound levels that my neighbors down the street are experiencing.

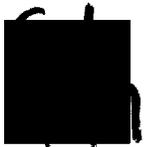
Quite frankly, we have considered moving out of our home because of this disturbance. We love our home and hope that we never have to do so. We also have a deep concern regarding our property value given the current conditions.

I appreciate you taking the time to learn more about the disturbance in our neighborhood. I'm very hopeful that you will be able to help us with this predicament.

With regards,
Roy Shamir
7101 Bright Star Lane

Heldenfels, Leane

From: Marlene Warner [REDACTED]
Sent: Tuesday, November 03, 2015 11:55 AM
To: Heldenfels, Leane
Subject: Case #C15-2015-0147
[REDACTED]



M's Heldenfelds:

I am e-mailing you in regards to case number: C15-2015-0147 of Life Austin amphitheater at 8901 SH 71 West.

I hope you consider this case serious to all of us living in Hill Country Estates and the surrounding communities. We never got our due process and the noise has become a big nuisance to all of us living out here. Since they began their concerts this past summer it has disrupted our lives. The noise is unbelievable.

I have lived out here for over 25 years. We bought our property and built our home to enjoy the beauty and the sounds of nature. Unfortunately, this ended for us and we now are forced to listen to the music or come into the house. On the other hand, coming into the house does not help either because the sound goes through our brick wall and disrupts us listening to TV.

Numerous times, I called 311 to file a complaint and I also talked to District Rep. Officer Binder who actually told me that they are within the sound limit and cannot do anything about it. He works for the city. Then your city staff actually let Pastor Randy build his amphitheater when it should have never happened. Life Austin outdoor amphitheater is not a residence and it is not quiet. How would you like your life to be disrupted like ours?

A couple of weeks ago, my husband and I made a nice dinner, to sit out on our deck only to have to bring everything in due to the noise of his band. Needless, to say this ended when they began playing their music.

I have problems with my heart and the anxiety of having to listen to this excess noise doesn't help my PAC & PVC's and presently being treated for them. All of this anxiety comes from a Pastor who would not build an indoor theater. He told us he wanted to spread the word of the lord through his music. For a man who preaches peace why did he have to take it away from us?

I am asking you and the Board of Adjustment to grant the appeals filed by Hill Country Estates HOA and Covered Bridge POA and to direct staff to forward the TUP appeal filled by us.

This is important to me and I beg that you listen to my request to finally end this and give us back our peace and quiet.

Sincerely,

Marlene & Beak Warner
7001 Midwood Parkway

Heldenfels, Leane

From: Michael Owen <[REDACTED]>
Sent: Tuesday, November 03, 2015 9:59 AM
To: Heldenfels, Leane
Cc: make_mister04@yahoo.com
Subject: BOA Case# C15-2015-0147
 [REDACTED]

This message is from Michael Owen [REDACTED]

reference: case number: C15-2015-0147

LifeAustin: 8901 SH 71 West

Ms. Heldenfels:

This e-mail is to inform you of my desire to postpone the meeting scheduled for November 8 until December. I admit that I was disappointed to learn of the back-door process that was used to keep affected residents out of the loop of approval. Residents who moved into their Rural Residential neighborhoods to enjoy the peace and quiet of the country atmosphere.

As a longtime resident of the city, I also note that this was the culmination of decades of failed attempts by Master Randy to create such a venue on the grounds of his father's private church in downtown Austin. In the months preceding the stated Grand Opening of his new and profitable LifeAustinAmp in which his personal band was showcased and included multiple rotating searchlights in the sky, we have been subjected to objectionable noise from concerts who's ticket prices range up into the \$40+ range.

Inside of our houses we can hear Music, Base vibrations, and crowd noise for durations of the event. This doesn't include the additional annoyance of noise generated from sound checks when setting up that may happen hours before, or the day before the event in which Travis County Deputies serve as parking lot attendants.

Heldenfels, Leane

From: P Jones <[REDACTED]>
Sent: Monday, November 02, 2015 9:18 PM
To: Heldenfels, Leane
Subject: Board of Adjustment Case: C15-2015-0147; LifeAustin amphitheater: 8901 SH 71 West

Dear Ms. Heldenfelds:

I am requesting that the Board of Adjustment **grant** the appeals filed by the Hill Country Estates Homeowners Association and the Covered Bridge Property Owners Association in the above appeal pending before the BOA.

LifeAustin's outdoor amphitheater is on property that is zoned Rural Residential. RR zoning means a rural and quiet neighborhood. City Staff did not have the authority to administratively approve LifeAustin's construction of an outdoor amphitheater. The City should enforce the zoning code as it is plainly written. Unfortunately, Staff's interpretations set a precedent to allow all church grounds to become outdoor entertainment venues .

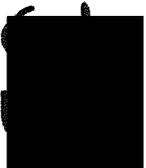
I also respectfully request that the Board of Adjustment direct staff to forward the temporary use permit appeal filed by the Hill Country Estates HOA and the Covered Bridge POA to the BOA for its review and determination.

Thank you for your consideration.

Paula Jones
Hill Country Estates Homeowners Association

Heldenfels, Leane

From: Dylan Duke
Sent: Tuesday, November 03, 2015 9:36 AM
To: Heldenfels, Leane
Cc: omegaduke1205@gmail.com
Subject: Case C15-2015-0147



Leane,

I hope all is well.

I am writing you to address my grievance with the Life Austin Amphitheater at 8901 SH 71 West.

My wife and I have three children and moved into our formally quite neighbor almost 4 years ago.

We now are subject to incredibly loud music throughout the week and on weekends. The intense bass and loud music combined with the roar of the crowd gives my backyard and house a feel of living on 6th street.

It is a wide belief that this church has corrupted the City of Austin officials and has pushed through with their outrageous commercial plans regardless of neighborhood complaints, constant calls to 911 and 311, a clear violation of permitting and an outrageous claim that they are a resident. How many residents have events with 1500 people that charge tickets and charge for food and drink?

I would like someone to explain to me why I have to answer my children's questions of why their windows are shaking at 9:30 PM on a Sunday night.

The amphitheater has caused a great amount of stress and concern.

We simply ask we make this right. We ask the Board of Adjustment to grant the appeals filed by Hill Country Estates HOA and the Covered Bridge POA. Further, we ask the Board of Adjustment to direct staff to forward the TUP appeal filed by Hill Country Estates HOA and the Covered Bridge POA to the BOA.

Thank you,

Dylan & Omega Duke
6705 Bright Star Lane
Austin, TX 78736

CITATIONS TO BACKUP MATERIAL

PAGE NUMBERS IN BRACKETS

SNEED, VINE & PERRY
A PROFESSIONAL CORPORATION
ATTORNEYS AT LAW
ESTABLISHED 1926

900 CONGRESS AVENUE, SUITE 300
AUSTIN, TEXAS 78701

TELEPHONE (512) 476-6955
Writer's Direct Dial:
(512) 494-3135

FACSIMILE (512) 476-1825
Writer's e-mail address:
[REDACTED]

October 26, 2015

Mr. William Burkhardt, Chairman
Austin Board of Adjustment
c/o Ms. Leane Heldenfelds
Development Services Department
505 Barton Springs Road
Austin, Texas 78704

Re: Appeal of Approval of the Construction of an Outdoor Amphitheater;
8901 S.H.71 W; SP-2011-185C ("**Site Plan**") and associated Restrictive
Covenant; and 2013-002081 PR ("**Building Permit**")

Dear Chairman Burkhardt and Members of the Board of Adjustment:

This firm represents the Hill Country Estates Homeowners Association ("**HCEHOA**"), who appealed the approval of the Site Plan and Restrictive Covenant in October 2011 ("**Site Plan Appeal**") [**101-126**] and the Building Permit in May 2013 ("**Building Permit Appeal**") [**9-100**], and the Covered Bridge Property Owners Association ("**CBPOA**") who also appealed the approval of the Building Permit in May 2013 (collectively, "**Appellants**"). This letter and the attached exhibits supplement and are incorporated into the Site Plan Appeal and the Building Permit Appeal (collectively, the "**Appeals**").

The Board of Adjustment ("**BOA**") hearings on the Appeals have been delayed years because staff acted as if it had the authority to decide whether the Site Plan Appeal had been timely filed. According to staff, the Appellants had only one opportunity to appeal the land use determinations subject to the Appeals. That is, Appellants should have filed their appeals within 20 days of Director Guernsey sending a December 23, 2008 email to Carl Connelly. Staff denied Appellants' right to appeal in October 2011 even though staff had not notified the Appellants of the existence of this private email until July 2011. In 2012, the Appellants sued the City and Director Guernsey over the denial of appeal rights and the legality of the approval of the Site Plan and Restrictive Covenant. Staff then challenged Appellants right to bring the lawsuit. The trial court granted the staff's motion to end the lawsuit in May 2013. Appellants appealed the trial court ruling.

In a May 2015 ruling, the Court of Appeals reversed the trial court decision as to HCEHOA stating that the trial court could not determine whether HCEHOA had standing to bring the lawsuit until the BOA had decided whether HCEHOA had standing to appeal the approval of the Site Plan and Restrictive Covenant. In effect, the Court of Appeals ruling overturned the staff's authority to withhold the Site Plan Appeal from the BOA. A copy of the Court of Appeals ruling is attached as Exhibit 6. [192-208] In August 2015, the City Legal Department notified counsel for Appellants that staff would forward the Site Plan Appeal and the Building Permit Appeal to the BOA.

EXECUTIVE SUMMARY

Interpretations Being Appealed

When the Planning and Development Review Department ("PDRD") approved the Site Plan and the Restrictive Covenant in October 2011 and the Building Permit in May 2013, it made the following land use determinations:

1. outdoor religious assembly is a principal and permitted use in the Rural Residential zoning district;
2. an outdoor amphitheater is a principal use under the "religious assembly" use;
3. musical and theatrical performances (concerts, plays, ballet, movies, etc.) not part of a religious worship service are principal uses under the religious assembly use; and
4. benefits, festivals, community events and charitable events, including ticketed events, are principal uses under the religious assembly use.

The articulations of these land use determinations (collectively "Land Use Determinations") are found in the Restrictive Covenant. Exhibit 1. [153-159]

Summary of Appellants' Positions

Section 25-2-921(C) of the Land Development Code ("LDC") absolutely prohibits all types of outdoor assembly of people, including public assembly, religious assembly, festivals, and benefits in the RR to SF-3 zoning districts. Therefore, in the RR to SF-3 zoning districts, religious assembly, festivals and benefits must be conducted inside an enclosed building. The definition of religious assembly in § 25-2-6(B)(41) of the LDC narrowly defines religious assembly use as "regular organized religious worship or religious education in a permanent or temporary building." While music and presentations are clearly part of religious worship and religious education, stand alone plays, ballets, movies and concerts advertised to attract the general public is simply entertainment.

Appellants contend that City staff exceeded their authority under the LDC and Chapter 211 of the Texas Local Government Code by authorizing outdoor activities that are explicitly prohibited by the Zoning Code and an expansion of the principal uses allowed under the religious assembly use. For years, City staff has approved public restrictive covenants to impose restrictions that are outside the scope of the Zoning Code. The modification of the uses allowed under religious assembly is clearly within the scope of the Zoning Code. State law requires public notice and public hearings to amend zoning regulations and zoning district boundaries.

Neither staff nor the BOA has the legislative authority to amend the Zoning Code. The adoption and modification of zoning regulations and zoning districts are legislative functions of the governing body of the municipality. *Thompson v. Palestine*, 510 S.W. 2d 579, 581 (Tex. 1974). "...the city council may not delegate legislative functions under Chapter 211 to any person or public board. *Lacy v. Hoff*, 633 S.W.2d 605, 607 (Tex. Civ. App.—Houston [14th] 1982, writ ref'd n.r.e.); *Swain v. Board of Adjustment*, 433 S.W. 2d 727 (Tex. Civ. App. - Dallas 1968, writ ref'd n.r.e.)

Appellants also contend that the limitation on the frequency of outdoor concerts and benefits stated in the Restrictive Covenant is legally void because of vagueness. The Restrictive Covenant states that "religious assembly use may include occasional charitable events (including concerts and performances)" that require tickets charging more than a nominal fee to cover utilities, maintenance, and other operational charges. (Emphasis added). Without a numeric limitation, the term "occasional" is so vague as to make the limitation on the frequency of such events completely non-enforceable by Code Compliance.

Appellants ask the BOA to reverse:

1. the Land Use Determination ("LUD") that outdoor religious assembly is a principal use under religious assembly;
2. the LUD that an outdoor amphitheater is a principal use under religious assembly;
3. the LUD that the religious assembly use includes musical and theatrical performances and benefit concerts as principal uses;
4. the approval of the Site Plan;
5. the approval of Article I of the Restrictive Covenant; and
6. the approval of the Building Permit.

Alternatively, the Appellants ask the BOA to reverse the approval of Article I of the Restrictive Covenant because the limitation on the frequency of events held at the outdoor amphitheater (Occasional) is so vague that it is unenforceable.

STATEMENT OF FACTS

Supplemental Statement of Facts

The statement of facts in this letter describes additional events preceding the filing of the first site plan for the outdoor amphitheater in January 2011 and events occurring after the filing of the Building Permit Appeal in May 2013. A timeline of the events is attached as Exhibit 21.

[350-351]

Proposed Use of Outdoor Amphitheater

Randy Phillips, the lead pastor for Life Austin, has been a member of the recording group Phillips, Craig and Dean for 25 years. According to Mr. Phillips, he has dreamed for more than 20 years of having an outdoor amphitheater in Austin. Exhibit 2-2. **[163]** In 2007,

PromiseLand Church West, Inc.¹, now doing business as Life Austin, acquired approximately 68 acres of undeveloped land located between and adjacent to the Hill Country Estates (“HCE”), Covered Bridge (“CB”), and West View Estates residential subdivisions. The 68 acres was zoned Rural Residential in 2007 and remains so today. Exhibit 3. [172]

Later in 2007, Randy Phillips announced plans to use 53 acres of the land (“Property”) for the “Dream City” development that he described as “a community resource, not just a church home.” Exhibit 2-1. [160-162] As proposed, the Dream City development included an outdoor amphitheater. According to the church, the amphitheater could be used for “graduations, theatrical plays/productions, seminars, ‘family movie’ night, weddings, educational productions, neighborhood meetings and occasional concerts.”² (Emphasis added) In March 2011, Randy Phillips explained to the media that the Dream City amphitheater would serve as an integral part of the community, providing a place for graduation ceremonies, recitals, ballets, family movie nights, jazz concerts, and other events. Randy Phillips told the media that he wanted to build “an amphitheater befitting the Live Music Capital of the World.”³ Large outdoor amphitheaters are very rare in Austin because of the conditional use permit requirement. Between 2007 and the end of 2011, only two permanent outdoor amphitheaters existed in the City of Austin—Symphony Square and Stubb’s.

Neighborhood Discussions 2007 to 2009

From April 2007 to early 2009, representatives of Life Austin met with representatives of the Appellants and the Oak Hill Association of Neighborhoods (“OHAN”) regarding the Dream City development. At an August 4, 2008 meeting, neighborhood representatives conveyed general willingness to support the Dream City development except for the outdoor amphitheater. Representatives of Life Austin expressed disappointment with the widespread concerns regarding the outdoor amphitheater. Life Austin offered to limit the number of productions at the outdoor amphitheater to 8 per month (2 per week or 100 per year).⁴

A final meeting between representatives of Life Austin and representatives of Appellants took place on January 12, 2009. During this meeting, Life Austin representatives indicated that while they would like the neighborhoods’ approval and acceptance of the Dream City project, it in fact wasn’t needed because of the religious nature of the project. Thereafter, Life Austin ceased communicating with the Appellants.

Site Plan, Restrictive Covenant and Building Permit Approved; Litigation

Background facts and the facts relating to the review and approval of the Site Plan, Restrictive Covenant, and Building Permit are set out in the May 2013 Building Permit Appeal, including the May 28, 2013 standing letter to the BOA. **[37-48]**

A statement of facts relating to the litigation filed by Appellants in March 2012 to obtain a BOA hearing on the Site Plan Appeal is set out in my September 25, 2015 letter to the BOA accompanying the resubmittal of the Appeals. **[3-5]**

¹ The property and the permits remain in the name of PromiseLand West.

² August 5, 2008 Oak Hill Gazette

³ August 5, 2008 Oak Hill Gazette.

⁴ August 5, 2008 Oak Hill Gazette.

Post-Filing of the Building Permit Appeal

By a June 13, 2013 letter, City Legal informed the Appellants that the Building Permit appeals would not be forwarded to the reviewing bodies; “. . . the Director has determined that your appeals are untimely and beyond the jurisdiction of . . .the BOA . . .” Exhibit 4. **[173-175]**

On July 2, 2013, Appellants filed an appeal of the decision not to forward the building permit appeal to the BOA.⁵ **[112-127]** Appellants never received a response from the City regarding the disposition of this appeal. The July 2, 2013 appeal is largely mooted as a result of the City agreeing to forward the Appeals of the Site Plan, Restrictive Covenant, and Building Permit after the decision issued by the 13th Court of Appeals on May 7, 2015. Exhibit 6. **[192-208]** Nevertheless, the July 2, 2013 appeal raises serious issues about the authority and propriety of staff deciding which appeals are sent to the BOA when the City Code and State law mandate that appeals shall be forwarded to the BOA.

Subsequent Events

On March 20, 2014, the Appellants sent a letter to Life Austin stating the Appellants would not abandon their legal fight to have the BOA hold hearings on the Appellants' appeals and informing Life Austin that if it proceeded with the construction of the outdoor amphitheater, then it would do so at the risk of having the permits authorizing the outdoor amphitheater reversed by the BOA. Exhibit 7. **[209-210]**

In April 2014, Life Austin responded to the March 20, 2014 letter. The Life Austin letter stated that they understood that the Appellants had sued the City and Director Guernsey over the land use determinations made regarding the amphitheater, but they were committed to proceeding with their development in a timely manner. Exhibit 8. **[211-212]** Both communications occurred prior to the construction of the outdoor amphitheater which began during the summer of 2014.

Outdoor Amphitheater Begins Operations

Between July 19, 2015 and October 17, 2015, 12 concerts and one movie were held at the outdoor amphitheater. Exhibit 2-3 **[165-170]** Residents of Hill Country Estates and Covered Bridge have made more than 110 complaints to 3-1-1 regarding the noise from the outdoor amphitheater. A representative sampling of the 3-1-1 complaints is attached as Exhibit 9. **[213-237]** Residents of Hill Country Estates have complained to 3-1-1 that the concert music can be heard inside their homes. On at least two occasions, the 3-1-1 operator has commented on hearing the music over the telephone. Sound from the outdoor amphitheater can be clearly heard more than a half mile away.

⁵ A copy of this appeal accompanied September 25, 2015 letter submitted with re-filing of the Appeals.

APPLICABLE CITY CODE PROVISIONS

Rural Residential Zoning District

Section 25-2-54 of the LDC states: "An RR district designation may be applied to a use in an area for which **rural characteristics** are desired or an area whose terrain or public service capacity require low density." (Emphasis added).

Religious Assembly

As previously discussed, § 25-2-6(B)(41) of the LDC defines the religious assembly use as "regular organized religious worship or religious education in a permanent or temporary building. The use excludes private primary or secondary educational facilities, community recreational facilities, day care facilities, and parking facilities." (Emphasis added) According to § 25-2-491(A) of the LDC, the religious assembly use is allowed in all residential zoning districts and the vast majority of all other zoning districts. § 25-2-491(B) of the LDC states: "The requirements of the other provisions of this subchapter [Subchapter C Use and Development Regulations] modify and supersede the requirements of this section."

Prohibited Activities Allowed with a Temporary Use Permit

Section 25-2-921(C) of the LDC is a provision within subchapter C of Chapter 25-2. This §25-2-921(C) provides:

An outdoor public, **religious**, patriotic, or historic **assembly** or exhibit, including a festival, benefit, fund raising event, or similar use that typically attracts a mass audience may be permitted as a temporary use under this division if:

- (1) for a gathering of not more than 50 persons, **the use is located in an SF-4 or less restrictive zoning district;**
- (2) for a gathering of more than 50 persons, the use is located in an LO or less restrictive zoning district;" (Emphasis added)

Sub§ 25-2-921(C)(1) of the LDC clearly prohibits the issuance of a temporary use permit ("TUP") for any activity that attracts a mass audience in the RR to SF-3 zoning districts. § 25-2-921(C) further limits the size of a gathering to no more than 50 people unless the tract is zoned LO (Limited Office) or less restrictive.

Provisions regulating the issuance of temporary permits for uses otherwise prohibited first appeared in the Austin Zoning Code with the adoption of Chapter 13-2A that went into effect on January 1, 1985. § 13-2A-5200 provided:

"Sections 5200 through 5299 shall be known as the Temporary Use Regulations. Provisions authorizing temporary uses are intended to permit occasional, temporary uses and activities when consistent with the purposes of the Zoning Regulations and when compatible with other nearby uses." (Emphasis added)

§ 13-2A-5230(d) provided:

“The following types of temporary use may be authorized, subject to specific limitations herein and such additional conditions as may be established by the Building Official.” (Emphasis added)

Code language regarding temporary use permits for outdoor assembly remains virtually unchanged since 1985.

Temporary Use Permit Defined

Eight months prior to the approval of the Site Plan and Restrictive Covenant, the City Council adopted Ordinance No. 20110210-029 that added a definition of a “temporary Use Permit to the Sound Ordinance. Section 9-2-1(15) of the City Code defines a temporary use permit as “a permit issued by the Planning and Development Review Department under Chapter 25-2, Article 6 (*Temporary Uses*) [§ 25-2-921] to authorize a **temporary activity not otherwise allowed as a principal or accessory use in a base zoning district.**” (Emphasis added). In other words, a TUP is not necessary if the activity is allowed as a principal or accessory use. The outdoor activities listed as requiring a TUP in § 25-2-921(C) definitively establish these as prohibited activities.

Outdoor Entertainment

§ 25-2-4(B)(46) defines Outdoor Entertainment as a use that “is a predominantly spectator use conducted in open, partially enclosed, or screened facilities.” This use includes sports arenas, racing facilities, amusement parks, venues for weddings, and other events. According to § 25-2-491 of the LDC, outdoor entertainment is not a permitted use in any zoning district and requires a conditional use permit in commercial and industrial zoning districts. **Exhibit 10. [238-240]**

Determination of Use Classification

The authority for land use determinations is found in § 25-2-2 of the LDC. Following PDRD's refusal to forward Site Plan Appeal to the BOA, the City Council adopted Ordinance No. 20120426-122 to reform the Land Use Determination process to require notification of potential interested parties to prevent non-public determinations being used to deny appeal rights.⁶

The version of § 25-2-2 in effect in October 2011 read as follows:

- (A) The director of the Neighborhood Planning and Zoning Department shall determine the appropriate use classification for an existing or proposed use or activity.
- (B) In making a determination under this §, the director of the Neighborhood Planning and Zoning Department shall consider the characteristics of the proposed use and the similarities, if any, of the use to other classified uses. (Emphasis added)
- (C) An interested party may appeal a determination of the director of the Neighborhood Planning and Zoning Department under this § to the Board of Adjustment.

⁶ See Council discussion on item 59 of the December 15, 2011 Council agenda (Resolution directing City Manager to draft an ordinance).

- (D) The director of the Neighborhood Planning and Zoning Department shall notify the Planning Commission and the Zoning and Platting Commission of the filing of an appeal within 30 days of the filing, and of the disposition of the appeal within 30 days of disposition.
- (E) The director of the Neighborhood Planning and Zoning Department **shall** maintain a list of determinations made under this section. (Emphasis added).

Amphitheater Now Conditional Use

In response to PDRD's refusal to forward the Site Plan Appeal to the BOA, the City Council adopted Ordinance No. 20130228-074 which added a definition of "amphitheater" to the LDC. Section 25-1-121(4) defines an "amphitheater" as "an outdoor or open-air structure or manmade area specifically designed and used for assembly of 50 or more people and the viewing of an area capable of being used for entertainment and performances."

This ordinance also added Section 25-2-517 that reads as follows:

"(A) Construction of an amphitheater that is associated with a civic or residential use requires a site plan approved under Section 25-5, Article 3 (Land Use Commission Approved Site Plans), regardless of whether the amphitheater is part of a principal or accessory use. Review of the site plan is subject to the criteria in Section 25-5-145 (Evaluation Criteria) and the notice requirements of Section 25-5-144 (Public Hearing and Notice).

(B) A decision by the Land Use Commission on an application for an amphitheater is subject to appeal under Section 25-5-149 (Appeal to Council)."

Determination Of Standing To Appeal

- § 25-1-191(A) - CONDUCT OF PUBLIC HEARING.

"Before opening a hearing, a body hearing an appeal shall decide preliminary issues raised by the parties, including whether to postpone or continue the hearing and whether the appellant has standing to appeal."

APPELLANTS' POSITIONS

The Land Use Determinations made in conjunction with the approval of the Site Plan, the Restrictive Covenant, and the Building Permit constitute significant and improper deviations from unambiguous provisions in Chapter 25-2 of the LDC:

1. The Restrictive Covenant authorizes the religious assembly use to occur **outdoors** in a Rural Residential ("RR") zoning district even though § 25-2-921(C) of the LDC absolutely prohibits outdoor assembly of any type in the RR zoning district.
2. The Site Plan and the Restrictive Covenant classified a 3,500 seat **outdoor** amphitheater as a principal use under the "religious assembly" use. Exhibit 11 (Deposition of Greg Guernsey Page 99, lines 9-10; page 154, lines 16-20). **[254, 267]**

3. If a use is prohibited, then a structure required for the prohibited use is also prohibited. For example, a building permit for an office building cannot be issued in a residential zoning district.

4. Even if § 25-2-921(C) is interpreted as allowing some outdoor events on the Property, the size of the completed outdoor amphitheater (1,500 seats) dwarfs the 50 person limit placed on outdoor assembly in all residentially zoned property.

5. The Restrictive Covenant broadens the type of activities that constitute principal uses by adding community and charitable events and musical and theatrical performances not part of a religious worship service (concerts, plays, ballet, movies, etc.).

6. The limitation of the frequency of ticketed events held at the amphitheater is so vague that it is unenforceable. The Land Use Determinations are so contrary to the provisions of Chapter 25-2 that they should require the formal code amendment process required under Chapter 211 of the Texas Local Government Code. The proposed code amendment to § 25-2-921(C) discussed below confirms the conclusion made in the preceding sentence.

The approval of the Building Permit required the same Land Use Determinations made in conjunction with the approval of the Site Plan and the Restrictive Covenant. Director Guernsey stated under oath that the review and approval of every site plan and building permit application requires a Land Use Determination. Exhibit 11 (Deposition of Greg Guernsey, Page 22, line 11 to Page 23, line 23). **[243-244]**

The Texas Supreme Court has ruled that “the BOA has the power to hear and decide appeals from any decision or determination by a city administrative official pertaining to the enforcement of the city’s zoning ordinance.” *Ballantyne v. Champion Builders, Inc.*, 144 S.W.3d 417, 426 (Tex. 2004). (Emphasis added). In the Ballantyne case, the Texas Supreme Court ruled that Chapter 211 of the Texas Local Government Code authorizes boards of adjustment to hear and decide appeals of the issuance of building permits based on zoning. *Id.* 425.

“Outdoor” Religious Assembly

Director Guernsey has defended his approval of outdoor religious assembly as a principal use under religious assembly by stating the Austin Zoning Code “does not distinguish between indoor and outdoor religious assembly.” Exhibit 11 (Deposition of Greg Guernsey, Page 168, line 25- page 169, line 4). **[274-275]**

According to Director Guernsey, all activities that may occur inside a building having a religious assembly principal use may also be conducted outdoors as a religious assembly use.

Director Guernsey’s statement and determination that the Zoning Code “does not distinguish between indoor or outdoor religious assembly” is simply incorrect. § 25-2-921(C) of the LDC directly addresses the issue by absolutely prohibiting all types of outdoor assembly of people, including religious assembly, in the RR to SF-3 zoning districts. In all other zoning districts, all outdoor assembly activities require a Temporary Use Permit.

In February 2011, eight months before the approval of the Site Plan and Restrictive Covenant, the City Council adopted the following definition of a temporary use permit: “a permit issued by the Planning and Development Review Department under Chapter 25-2, Article 6

(*Temporary Uses*) to authorize a temporary activity not otherwise allowed as a principal or accessory use in a base zoning district. (Emphasis added) When § 25-2-921(C) of the LDC and 9-2-1(15) of the City Code are read together, there can be no doubt that outdoor religious assembly is not a permitted principal or accessory use in the RR to SF-3 zoning districts.

In addition to the plain language in the Zoning Code, there are strong public policy reasons for keeping religious assembly activities inside buildings, particularly in residential areas. Religious beliefs are varied and very personal. Allowing outdoor religious worship on any residential lot is likely to lead to situations where people with differing religious beliefs would interact and potentially conflict. When the City chose to regulate outdoor assembly of people in 1985, it also recognized the great difficulty of distinguishing between an activity that is religious assembly and one that is not religious assembly. Section 25-2-921(C) of the LDC avoids this enforcement challenge by regulating all outdoor mass gatherings of people, religious assembly or not, in the same way.

Determination that “Outdoor Amphitheater” is Principal Use Under Religious Assembly

The version of § 25-2-2(B) of the LDC [Determination of Use Classification] in effect in 2011 mandated PDRD and Director Guernsey to consider the “characteristics of the proposed use and the similarities, if any, of the use to other classified uses.” In other words, what classified use is the most similar to the proposed use.

Life Austin has been very open about how it intended to use the outdoor amphitheater—a community resource for events and entertainment. Since 2007, Randy Phillips and Life Austin have described and promoted the outdoor amphitheater as an events venue (concerts, plays, ballets, movies, weddings, etc.) befitting the “Live Music Capital of the World.” Exhibit 2-1. [160-162] In the context of a § 25-2-2 Land Use Determination, the type of events that Life Austin proposed and now holds at the outdoor amphitheater are most similar to the classified use of “outdoor entertainment” defined in § 25-2-4(B)(46) of the LDC.

When asked in February 2013 to identify an example of a church with an outdoor open structure resembling the Life Austin outdoor amphitheater, Director Guernsey responded:

“I believe there are structures probably in Austin somewhere that have either outdoor prayer gardens or - I know the church - my church actually has a couple of benches outside where people can sit and people can talk. There are other - probably other venues that are out there where there may be a place where people can congregate outside.” Exhibit 11. (Deposition of Greg Guernsey, February 20, 2013; Page 37, lines 19-25). **[246]**

Appellants contend that neither a prayer garden nor a park bench share any similarities or characteristics with an outdoor amphitheater that seats up to 1,500 people. The use of this outdoor amphitheater is more similar to an outdoor entertainment use than it is to a prayer garden. The potential impacts of the outdoor entertainment use are so significant that the outdoor entertainment use is possible in a limited number of commercial zoning districts and requires a Conditional Use Permit. There is no basis or legal authority for an administrative determination that the construction and use of a large outdoor structure with amplified sound could be classified as a permitted use in the RR zoning district. If outdoor assembly is prohibited in the RR zoning district then a structure for outdoor assembly is also prohibited.

Appellants' Position on § 25-2-921(C) Supported by Other Staff Actions

Below, Appellants cite several written City staff interpretations and an enforcement of § 25-2-921(C) of the LDC that are consistent with Appellants' position. These instances occurred before and after the approval of the Site Plan, Restrictive Covenant, and the Building Permit. Two staff statements made in 2008 and 2007 regarding the proposed outdoor amphitheater are discussed on page 4 of the Robert Kleeman May 28, 2013 letter to the BOA filed with the Building Permit Appeal. **[62, 67]**

Proposed Amendment to § 25-2-921(C)

At the September 18, 2012 meeting of the Planning Commission Codes and Ordinances Committee, PDRD staff presented a request to initiate a code amendment regarding "Public Assembly Permits." According to the minutes of this meeting:

"Greg Dutton explained that the city's current code does not allow institutions such as churches and schools, that have certain residential zoning, to apply for a temporary use permit that would be needed to conduct temporary outdoor events, such as fund raising events or festivals." Exhibit 12-1. **[297]**

The Planning Commission formally initiated the requested code amendment on September 25, 2012 which was assigned City case # C20-2012-016 "Temporary Outdoor Public Assembly Code Amendment" ("**Code Amendment**"). Attached as Exhibits 12-2 through 12-6 **[301-314]** are several versions of the Ordinance Amendment Review Sheets prepared by City staff between December 2012 and October 2013 for the Planning Commission and the City Council. The Background Sections in the attached Ordinance Review Sheets include the following statement:

"Under the current code, certain temporary outdoor events are only allowed in certain zoning districts, depending on the number of attendees at said events. These events can include public, **religious**, patriotic, or historic **assembly** or exhibit, **including a festival, benefit, fund raising event, or similar use**. Temporary **outdoor public assembly events held by churches** and schools, which often have residential zoning, are currently prohibited or restricted in conducting temporary outdoor events if their zoning is residential." (Emphasis added.)

The Code Amendment, as initially proposed, would have allowed properties whose principal use is religious assembly, educational, or community recreation apply for and obtain a temporary use permit to hold outdoor public assembly events. Exhibit 13-1. **[316]** At public hearings on the Code Amendment, staff explained that the Code Amendment was needed to allow for traditional outdoor school and church festivals and fund raising events. Importantly, the Code Amendment, as initially drafted, did not propose to make any activity listed in § 25-2-921(C) a permitted principal or accessory use. Even if the Council had approved the Code Amendment, outdoor public assembly events would remain prohibited for outdoor public assembly events held by churches, schools and community recreation facilities.

Notably absent from the Ordinance Review Sheets is any mention of the approval of the Land Use Determinations made in the approval of the Site Plan, the Restrictive Covenant, or the Building Permit. The code interpretations stated in the Ordinance Review Sheets for the Code

Amendment reflect the plain language of the LDC. Based on the Land Use Determinations granted to Life Austin, the Code Amendment should not have been needed if the City (as an institution) recognized the Life Austin Land Use Determinations as legal and consistent with the plain language of the LDC.

As of mid-October 2013, everyone in the City of Austin, except Life Austin, remained subject to the limitations and prohibitions of § 25-2-921(C) of the LDC. Outdoor public assembly, including, religious assembly, benefits, festivals, and any other mass gatherings of people were prohibited in all residential districts except for Life Austin. Simply put, the Land Use Determinations gave Life Austin special privileges not enjoyed by any other property in the City. This contrast (or double standard) is heightened by the City's legal actions against an east Austin Catholic church, as described below.

In late October 2013, PDRD staff released a new version of the Code Amendment that added a new subsection 25-2-921(D) that read:

"This provision does not apply to religious services held on property with a principal developed use of religious assembly. A permit is not required for religious services." (See Exhibit 13-2). **[318]**

PDRD staff had not previously proposed or even mentioned making any of the outdoor public assembly activities described in § 25-2-921(C) an allowed principal or accessory use. The topic had not been discussed at any public hearing held on the Code Amendment. Again, based on the Land Use Determinations granted to Life Austin, the proposed subsection 25-2-921(D) should not have been needed if the City (as an institution) recognized the Life Austin Land Use Determinations as legal and consistent with the plain language of the LDC.

November 18, 2013 Memorandum

In response to the last minute insertion of the proposed § 25-2-921(D) language, the Executive Committee of the Austin Neighborhoods Council adopted a resolution requesting public hearings on the added language. Exhibit 14. **[320-321]** Shortly thereafter, Director Guernsey sent the City Council a memorandum dated November 18, 2013 explaining that he had taken another look at § 25-2-921(C) and decided that outdoor festivals and benefits at schools and churches were part of the principal uses of education and religious assembly and that the Code Amendment was no longer necessary. Exhibit 15. **[322-323]** Based on the November 18, 2013 Memorandum, the Council tabled action on the Code Amendment.

There are several aspects to the November 18, 2013 Memorandum that are relevant to the Appeals. First, the interpretation of § 25-2-921(C) in this memorandum is a complete reversal the position staff had taken for more than year. Exhibits 12-2 through 12-6. **[301-314]**

Second, this memorandum does not mention the Land Use Determinations made in the approval of the Site Plan, the Restrictive Covenant, and the Building Permit for Life Austin. Instead, Director Guernsey bases his conclusion on the lack of complaints made about festivals, vents and benefits held at schools and religious assembly facilities:

"These types of events have long occurred in Austin and until now have not been a problem. To our knowledge, only a single individual has issued complaints against two Catholic churches regarding outdoor festivals. There does not, however, seem to be a community-wide concern with these types of events occurring as they always have in the past." Exhibit 15. **[323]**

In legal terminology, Director Guernsey asserts that the restrictions of § 25-2-921(C) have been amended through non-enforcement. Under Texas law, a municipality cannot be prevented or estopped in its governmental functions. *Trudy's Texas Star v. City of Austin*, 307 S. W. 3d 894, 906 (Tex. Civ. Appeals—Austin 2010). The adoption and modification of zoning regulations and zoning districts are legislative functions of the governing body of the municipality. *Lawton v. Austin*, 404 S.W. 2d 648, 651 (Tex. Civ. App.—Austin 1966, writ ref'd n.r.e.). Zoning regulations can only be amended through the public notice and public hearing process required by Chapter 211 of the Texas Local Government Code.

Third, generally, the City enforces the City Code and the Zoning Code based on complaints made by citizens. Exhibit 11 (Deposition of Greg Guernsey, page 236). **[286]** This enforcement approach allows community standards to decide what activities are intrusive and disruptive. Based on the frequency of complaints cited by Director Guernsey, the stereotypical outdoor events held at churches and schools do not bother nearby residents. What Director Guernsey failed to mention in this memorandum is that the complaints he referred to related to outdoor events with bands playing with amplified sound. The nature of the events being held is changing.

Fourth, the November 18, 2013 Memorandum does not state that outdoor religious assembly is a principal or accessory use. Instead, the discussion in the November 18, 2013 Memorandum is limited to outdoor benefits and festivals held on properties whose principal use is religious assembly, education, and community recreation. Again, if the City (as an institution) recognized the Life Austin Land Use Determinations as legal and consistent with the plain language of the LDC, the Code Amendment, the last minute insertion of the § 25-2-921(D) language and the November 18, 2013 Memorandum should not have been necessary.

The only conclusion is that the Life Austin Land Use Determinations violated the Zoning Code and exceeded staff authority.

Dolores Catholic Church

In May 2013, Code Compliance and the City Attorney's Office interpreted and enforced § 25-2-921(C) of the LDC consistent with Appellants' position in this appeal and consistent with the staff explanations made in conjunction with the Code Amendment. The City's actions against the Dolores Catholic church further demonstrate the special privileges granted to Life Austin. On May 18, 2013, Code Compliance issued a citation to the Dolores Catholic Church for holding an outdoor event without a TUP. Exhibit 16-1. **[324]** In June 2013, the City filed suit against the Austin Diocese in Municipal Court (Cause No. 7923874).

According to the complaint filed by the City of Austin, the Dolores Catholic Church property, located at 1111 Montopolis Drive, was zoned SF-3 and did not have a TUP to hold its event. Exhibit 16-2. **[326]** According to an October 23, 2013 Court Order, the City had agreed to drop the complaint against the Diocese once the City Council adopted the Temporary Outdoor Public Assembly Code Amendment then scheduled to be heard by the Council on

October 25, 2013. Exhibit 16-3. **[327]** In other words, once the Council amended § 25-2-921(C) to authorize the issuance of TUPs for future events at the church, the City would drop its prosecution of the church for violating § 25-2-921(C) of the LDC.

The Council tabled action on the Code Amendment at the November 21, 2013 Council meeting. On November 25, 2013, one week after the issuance of the November 18, 2013 Memorandum, the City dropped the municipal court action against the Austin Diocese. Exhibit 16-4. **[328]**

Appeal of November 18, 2013 Memorandum

The November 18, 2013 Memorandum is the subject of a December 2013 appeal filed by the Appellants. Exhibit 17. **[329-348]** PDRD, as communicated by the City Legal Department, refused to forward Appellants' December 2013 appeal to the BOA, claiming that the November 18, 2013 Memorandum did not contain any "appealable" decisions: "PDRD has determined that Director Guernsey's memo is not an "administrative decision" and is therefore not within the BOA's jurisdiction to review." Exhibit 18. **[349]**

Since the settlement agreement between the City and Diocese was contingent upon Council adoption of the Code Amendment, the City Attorney's office must have recognized the November 18, 2013 Memorandum as having sufficient legal significance to drop the case against the Diocese. That is, the November 18, 2013 Memorandum was deemed a land use determination. In May 2014, a complaint was filed regarding an outdoor event held at the Dolores Catholic Church. Carl Smart, Director of Code Compliance, responded that based on a decision by Director Guernsey, a TUP was no longer required for such an event. Exhibit 19. **[350-351]**

Because City staff has treated the November 18, 2013 Memorandum as an official land use determination, the Appellants ask the BOA to direct City staff to forward the December 2013 appeal to the BOA.

Expanded Activities Allowed Under Religious Assembly Use

As previously discussed, Life Austin announced their intent to use the outdoor amphitheater for "graduations, theatrical plays/productions, seminars, 'family movie' night, weddings, educational productions, neighborhood meetings and occasional concerts"⁷ years before the approval of the Site Plan and Restrictive Covenant. Since outdoor entertainment is not a permitted use in the RR zoning district, Life Austin needed the religious assembly use broadened to authorize these activities and the outdoor amphitheater. The Restrictive Covenant accomplished this goal.

As Director Guernsey stated under oath, "a restrictive covenant of this type is not necessarily one that is required by the City. It can be certainly offered by an applicant." Exhibit 11 (Deposition of Greg Guernsey, Page 211, lines 5-8). **[279]** Counsel for Life Austin prepared the first draft of the Restrictive Covenant. See page 8, May 28, 2013 Robert Kleeman letter to BOA filed with the Building Permit Appeal. **[44, 79-80]**

⁷ August 5, 2008 Oak Hill Gazette

The Preamble to the Restrictive Covenant references Life Austin's proposal "to allow an approximately 3,500 seat outdoor amphitheater to be included as part of a proposed religious assembly use." The fourth clause of the Preamble states the Director [Guernsey] determined that the applicable zoning classifications established by the Land Developed [sic] Code allowed an outdoor amphitheater as part of the proposed religious assembly use, subject to the conditions included in the proposal." **[153]**

The Restrictive Covenant attempts to define, by extensive detail, new principal use activities (musical or theatrical performances, weddings, and funerals) as well as "customary and incidental accessory uses" (neighborhood meetings, school graduation, public meetings, and other civic or non-profit group meetings). The Restrictive Covenant appears to be contract zoning, which is illegal in Texas.

Paragraphs C and D of Article I of the Restrictive Covenant state that "religious assembly use may include occasional charitable events (including concerts and performances)" that require tickets charging more than a nominal fee to cover utilities, maintenance, and other operational charges. (Emphasis added.) **[154]** The term occasional is so vague as to be completely non-enforceable. Appellants contend the term "occasional" was intended to mean "infrequent"; perhaps once or twice a year but certainly not on any regular basis. The terms "occasional" and "infrequent" lack the numerical specificity that land use regulations require. Even Director Guernsey has admitted that he is not sure how the term "occasional" would be enforced. Exhibit 11 (Deposition of Greg Guernsey, Page 235, line 6 to Page 237, line 1). **[285-287]** During the two months between July 24, 2015 and September 20, 2015, at least six "ticketed" concert events were held at the amphitheater. Exhibit 2-3. **[165-170]** Based on this frequency of "ticketed" events, Life Austin defines the term "occasional" to mean "regular" or "weekly."

Finally, representatives of Life Austin have publicly stated that the Restrictive Covenant allows Life Austin, as a charitable organization, to hold benefits to raise funds to pay for the construction of the amphitheater itself. Director Guernsey has also testified that so long as Life Austin maintains its tax-exempt status, virtually any type of event may be held at the outdoor amphitheater so long as it is a "fundraising event." Exhibit 11 (Deposition of Greg Guernsey, Page 233, lines 18- 24). **[283]** In effect, there is virtually no zoning limit on the type of outdoor "benefit" events that can be held on the Property.

Given the preferential treatment afforded Life Austin so far and Life Austin's penchant for disregarding the City Code⁸, and sound impacts on their neighbors, Appellants and their members fear that if unchecked, Life Austin will fully utilize the special privileges granted by the Restrictive Covenant. Appellants filed another appeal to the BOA in October 2015 after the Development Services Department approved Correction No. 12 to the Site Plan that authorized a dog park and disc golf course on the Property.

⁸ The City issued a citation to Life Austin in 2007 for cutting trees without a permit. The City issued a citation in 2015 for the construction of a dog park and Frisbee golf course without a permit.

SPECIAL CONSIDERATIONS REGARDING THE RESTRICTIVE COVENANT

Paragraph G of Article I of the Restrictive covenant provides:

"The restrictions in this Article I are imposed as conditions to Site Plan No. 2011-0185C and apply to the extent that an outdoor amphitheater remains part of the principal assembly use." **[154]**

The meaning and effect of the clause "apply to the extent that an outdoor amphitheater remains part of the principal assembly use" clearly indicates that City Staff and Life Austin knew that a determination could be made at some point to reverse the approval of the Site Plan as it applies to the outdoor amphitheater. Reversal is the most appropriate decision under the circumstances. Appellants, however, are concerned that even if the BOA reverses only the approval of the Site Plan and the Building Permit and the previously described Land Use Determinations, Life Austin is likely to claim that those actions do not affect the right to continue the operation of the outdoor amphitheater pursuant to rights granted by the Restrictive Covenant.

Director Guernsey's answer to the following question is instructive:

Q. "So, in other words, unless the owners of the property agree that this restrictive covenant goes away, it doesn't, right?"

A. "Right. These conditions would remain on the property. And a restrictive covenant by its nature is generally being something more restrictive, not less restrictive." Exhibit 11 (Deposition of Greg Guernsey, Page 238, lines 10-16). **[288]**

Therefore, BOA must specifically reverse the approval of Article I of the Restrictive Covenant; otherwise, the Restrictive Covenant may be interpreted as creating a grandfathered right to construct and operate an outdoor amphitheater under § 245.002(d) of the Texas Local Government Code:

"Notwithstanding any provision of [Chapter 245] to the contrary, a permit holder may take advantage of ... recorded restrictive covenants required by a regulatory agency..."

Unless the BOA reverses the approval of the Site Plan and Article I of the Restrictive Covenant, the termination or amendment of the Restrictive Covenant will require the joint action of the Property owner and the Director of PDRD.

RELIEF REQUESTED

The insertion of the proposed § 25-2-921(D) language into the Code Amendment begs the question as to why this provision would have been needed if Director Guernsey had already made a Land Use Determination that the Zoning Code made no distinction between indoor and outdoor religious assembly. If the City recognized the legitimacy of the Land Use Determinations made with the approval of the Site Plan, Restrictive Covenant, and Building Permit for Life Austin, then the Code Amendment would have been unnecessary and the prosecution of the Austin Dioceses would not have been appropriate. The clear and

unambiguous language in § 25-2-921(C) of the LDC, a year's worth of PDRD memoranda to the Planning Commission and City Council regarding the Code Amendment, and the 2013 prosecution of the Dolores Catholic Church conclusively prove that the Land Use Determinations made in the approval of the Site Plan, Restrictive Covenant, and Building Permit violated § 25-2-921(C). These approvals and the Land Use Determinations were wrong when made and remain wrong today. Moreover, the approval of the Site Plan, Restrictive Covenant in 2011, and the Building Permit in 2013 granted Life Austin special privileges that are not shared by similarly situated properties. The BOA should now reverse those decisions.

Appellants ask the BOA to reverse:

1. the Land Use Determination ("LUD") that outdoor religious assembly is a principal use under religious assembly;
2. the LUD that an outdoor amphitheater is a principal use under religious assembly;
3. the LUD that the religious assembly use includes musical and theatrical performances and benefit concerts as principal uses;
4. the approval of the Site Plan;
5. the approval of Article I of the Restrictive Covenant; and
6. the approval of the Building Permit.

Alternatively, the Appellants ask the BOA to reverse Article I of the Restrictive Covenant because the limitation on the frequency of events held at the outdoor amphitheater (Occasional) is so vague that it is unenforceable.

EFFECT OF REQUESTED RELIEF

Potential Staff Interpretation of BOA Granting Appeals

Appellants are also concerned that even if the BOA reverses the approval of the Site Plan, the Restrictive Covenants, the Building Permit, and the Land Use Determinations, City staff will make new interpretations that will allow the outdoor amphitheater to continue to operate. On two occasions members of City staff have indicated that if the BOA grants all the relief requested by Appellants, City staff may determine that the outdoor amphitheater is a legal non-conforming use. Exhibit 11 (Deposition of Greg Guernsey, Page 79, lines 14-22). **[253]** If the BOA grants Appellants' appeals, a determination of legal non-conforming use would be legally incorrect because the outdoor amphitheater would not have been legally constructed in the first place. Under Texas law, an improperly issued permit is void from the beginning and is deemed to never have existed. *Swain v. Bd. of Adjustment of City of University Park*, 433 S.W.2d 727, 733 (Tex.Civ.App.—Dallas 1968, writ ref'd n.r.e.). No rights can be derived from an improperly issued permit. *City of Amarillo v. Stapf*, 129 Tex. 81, 101 S.W.2d 229 (1937).

As the members of the BOA know, when an appeal of an administrative decision is filed, all proceedings relating to the appealed decision are automatically stayed until the appeal is resolved. § 211.010(c), Texas Local Government Code; § 25-1-187 of the LDC. City staff was legally obligated to enforce the automatic stay on the Site Plan, Restrictive Covenant, and Building Permit even if staff believed the appeals were not timely filed. *In re Jared Woodfill*, et al, 2015 WL 4498229 @ 5 (Tex. 2015). Staff was required by law to forward the Site Plan Appeal and the Building Permit Appeals to the BOA. § 211.010(b), Texas Local Government

Code; § 25-1-185 of the LDC. Only the BOA has the authority to decide whether it will hold a hearing on a filed appeal. § 211.010(d), Texas Local Government Code § 25-1-191(A) of the LDC. Appellants should not be penalized because City staff failed to comply with state law and the City Code.

If City staff were to decide that outdoor religious assembly, the outdoor amphitheater, and the expanded list of activities allowed under religious assembly were legal non-conforming uses, then Appellants would have no alternative but to file yet another appeal to the BOA on a determination that the outdoor amphitheater was "legally" constructed even though the BOA had reversed the approval of the applicable permits. Appellants hope that such an appeal will not be necessary.

Options for Life Austin

Life Austin purchased the Property knowing the Property had RR zoning. Life Austin decided not to participate in the Oak Hill Neighborhood Plan approved in December 2008. Life Austin decided not to apply for a zoning change and conditional use permit to authorize the construction and operation of the outdoor amphitheater. Instead, they sought and obtained administrative approvals in contravention of the plain language of the LDC and the City Code.

Appellants' right to appeal those administrative decisions were denied and delayed long enough to allow Life Austin to construct and complete the outdoor amphitheater. Life Austin should not benefit and Appellants should not suffer from the delay. After all, Life Austin was fully aware of the risks if it built the outdoor amphitheater before the resolution of the appeals.

Exhibit 7. [209-210] Of course, Life Austin has known as a matter of law that the LDC authorizes the suspension and revocation of permits that are determined to have been issued in error. See § 25-1-411 *et. seq.*

If the BOA grants all of the relief requested by the Appellants, Life Austin will have the options of:

1. filing a zoning application or a conditional use permit for the amphitheater;
2. appealing the BOA's decision to district court; and
3. making the amphitheater an enclosed building.

Appellants have already spent three years in litigation to enforce their right to have their appeals heard by the BOA. Rather than leaving the door open for more litigation, the Appellants respectfully ask the BOA to take every action available to it to have the future of the outdoor amphitheater addressed in the open process of a zoning case.

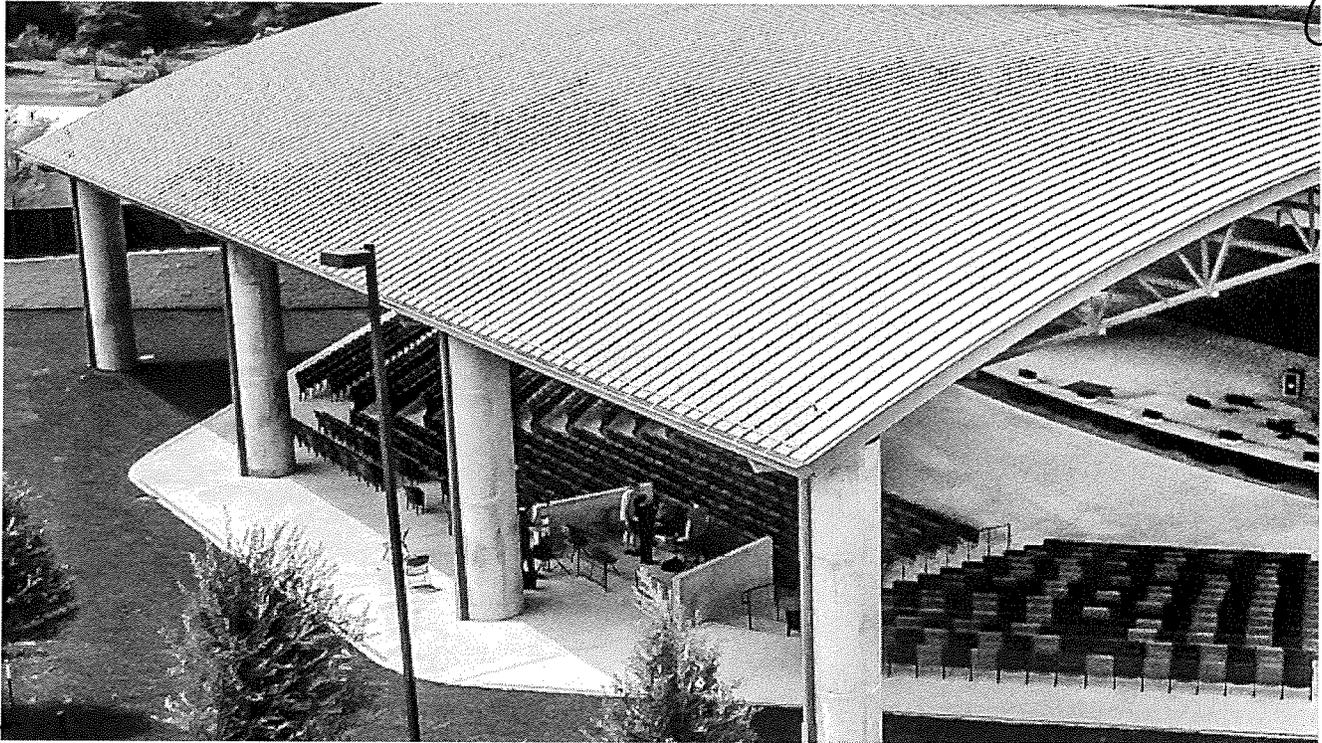
Appellants respectfully ask the BOA to grant their appeals.

Sincerely,



Robert J. Kleeman

RJK/dm
enclosures



6

LifeAustin

283

Supporters

"By signing below I hereby recognize and affirm that I am a member of LifeAustin Church. The LifeAustin Amphitheatre is an essential element of the Church's ministry. The Amphitheatre exists to bring transformation to the community through the arts given by the Creator in a setting that brings us closer to the Creator. One of the Church's guiding principles is to think and act on the imaginative ideas of the Holy Spirit in all that it does, including the expression of art, dance, drama, and music. The arts are a part of the way in which members of the Church prepare their hearts and minds to hear the word and to respond to that word."

★ indicate signers, have tried to mark out repeats. signers as of 11/23/15.

Letter to
City of Austin Staff Liaison-Board of Adjustment Leane Heldenfels
Re: Case number C15-2015-0147

"By signing below I hereby recognize and affirm that I am a member of LifeAustin Church. The LifeAustin Amphitheatre is an essential element of
[Read more](#)

Updates

- 1. 4 hours ago
250 supporters
- 2. 1 week ago
LifeAustin started this petition

Supporters

Top comments

Submit

Thank you for taking the time to report content. Our team will review your claim, and contact you if we need more information.

Load more

I am a member of this church and I support the activities hosted at the Amphitheatre.

★ Meredith Knight, Austin, TX
42 minutes ago

0
Report

Report abuse

Please report any offensive or inappropriate content.

Submit

Thank you for taking the time to report content. Our team will review your claim, and contact you if we need more information.

These services at this venue have impacted my life and family

★ William Ball, Del Valle, TX
4 hours ago

0
Report

Report abuse

Please report any offensive or inappropriate content.

Submit

101/600

Thank you for taking the time to report content. Our team will review your claim, and contact you if we need more information.

I am joining with & asking my fellow Austinites to request the existing approval to use the life Austin amphitheater tension in effect. 1. It's crucial to the ongoing integrity of the city & development of Austin that properly applied for, processed & granted licenses & approvals be honored. 2. This amphitheater is a huge part of an expanding expression of not only life Austin church but the Church At large. In its few months since completion, it had been used for life Austin specific events, events bringing worship leaders from all across Austin & performers of noe from all over the globe to enrich & further engage our community as a whole. Thank you for affirming the rule of law & good common community sense.



Shannon Black, Spicewood, TX

11 hours ago

0

Report

Report abuse

Please report any offensive or inappropriate content.

Submit

Thank you for taking the time to report content. Our team will review your claim, and contact you if we need more information.

I would like to see the wonderful ministry begun at the amphitheater continue to flourish.



Ben Warren, Austin, TX

12 hours ago

0

Report

Report abuse

Please report any offensive or inappropriate content.

Submit

101/601

Thank you for taking the time to report content. Our team will review your claim, and contact you if we need more information.

I live in Covered Bridge. I am grateful that they built amphitheater for family and youth. Compare with Barton Springs where host many concerts that are not proper for youth and families. Please keep this amphitheater in my neighborhood.



Connie Sefcik-Kennedy, Austin, TX

15 hours ago

0

Report

Report abuse

Please report any offensive or inappropriate content.

Submit

Thank you for taking the time to report content. Our team will review your claim, and contact you if we need more information.

While we are not members yet, we moved here from Tulsa in July and immediately began attending LifeAustin. Finding this church so quickly was a blessing for our family and was recommended to us from our minister in Tulsa. LifeAustin is such a positive, warm atmosphere in a world where sadness and evil are everywhere. We are so thankful we've found a church home where we can be fed while hearing the word ... through sermon and through the amazing music!



dana thames, Austin, TX

16 hours ago

0

Report

Report abuse

Please report any offensive or inappropriate content.

Submit

101/602

Thank you for taking the time to report content. Our team will review your claim, and contact you if we need more information.

This venue is for the entire community to share uplifting Christian music, inspirational messages, fellowship with others to gain a deeper meaning with Christ as well as a better sense of community and laughter. It is a much needed venue in this part of Austin and the city should uphold the decisions that have been made as we continue to move forward.



Teresa Ketner, Austin, TX

19 hours ago

0

Report

Report abuse

Please report any offensive or inappropriate content.

Submit

Thank you for taking the time to report content. Our team will review your claim, and contact you if we need more information.

Amazing the good work done there. Brings so many people to the great church surroundings.



Charles Claiborne, Austin, TX

23 hours ago

0

Report

Report abuse

Please report any offensive or inappropriate content.

Submit

Thank you for taking the time to report content. Our team will review your claim, and contact you if we need more information.

101/603

The Ampitheatre is a wonderful venue for expanding the Arts scene in Austin.



Pauly Littrell, Austin, TX

23 hours ago

0

Report

Report abuse

Please report any offensive or inappropriate content.

Submit

Thank you for taking the time to report content. Our team will review your claim, and contact you if we need more information.

The Amp assists in spreading the Gospel!



Michael Littrell, Buda, TX

23 hours ago

0

Report

Report abuse

Please report any offensive or inappropriate content.

Submit

Thank you for taking the time to report content. Our team will review your claim, and contact you if we need more information.

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101/604

The LifeAustin Amphitheatre is an excellent outdoor venue and I have enjoyed attending praise and worship events there personally. All of the LifeAustin Amphitheatre events on which I have seen information are focused on the extension of the Church's ministry.

I am a little perplexed by the City of Austin's revisiting of the Amphitheatre permits. As during the original permitting process, this venue would have been evaluated for community concerns. To have been originally permitted, all City of Austin requirements were met and/or exceeded and approved by city officials. Therefore, since the requirements have not changed in the past few months, it seems this one venue providing additional worship opportunities to our community of faith in Austin may be unique in receiving additional inspection. I trust that the City will be committed to the diversity of the Austin community and maintain the integrity of its permitting process by ensuring the permits provided stand as issued.

 Wendell Meeks, Austin, TX
2 days ago
1
Report

Report abuse

Please report any offensive or inappropriate content.

Thank you for taking the time to report content. Our team will review your claim, and contact you if we need more information.

The LifeAustin Amphitheater is a vital addition to the Austin faith community. I am grateful our family has this beautiful new venue in which to worship.

 Phyllis Rhea, Austin, TX
4 days ago
1
Report

Report abuse

Please report any offensive or inappropriate content.

101/605

community. Without the events, I would not have had the opportunity to express my faith through newer avenues. My belief system reaches farther than just a traditional Sunday service.



Eri Contreras, Austin, TX

6 days ago

3

Report

Repeat

Report abuse

Please report any offensive or inappropriate content.

Submit

Thank you for taking the time to report content. Our team will review your claim, and contact you if we need more information.

It is simply astounding that in a city like Austin, Texas, who calls itself "the live music capital of the world" and promotes the arts throughout our community, that they allow the minority to create such a stir over the LifeAustin Ampitheatre. This is a state of the art venue that packs the house each time the doors open with a community that has embraced and supported its opening since day one. It has complied, many times going over and beyond, what the city has required to buffer sound and lights as a gesture of good neighboring. It's time for the City of Austin to put this debate to bed and begin supporting this Ampitheatre and people of faith in our local communities that desire and support outdoor venues as this instead of listening to the handful of people who find anything they can to grumble and create unnecessary conflict just because they can.



JimmyandBeth Myers, Georgetown, TX

5 days ago

2

Report

Report abuse

Please report any offensive or inappropriate content.

Submit

Thank you for taking the time to report content. Our team will review your claim, and contact you if we need more information.

Repeat

I am a member of this church, and it was their recognition of the importance of the arts in worship that in part drew me to it. Life Austin contributes greatly to the Austin community and it would be tragic to see a carefully researched and thought out decision by the city of Austin to approve the facility to now be overturned, resulting in a reduction of the church's ability to serve the community.

Laurie Scott, Austin, TX
2 days ago

1
Report

Report abuse

Please report any offensive or inappropriate content.

Submit

Thank you for taking the time to report content. Our team will review your claim, and contact you if we need more information.

Repeat

I strongly believe in the religious mission of the Amphitheater! I have not felt closer to our Creator than watching artistic expression while feeling the wind on my face, the chill in the air, and watching the setting sun change the lighting of the art.

Michael Carr, Austin, TX
2 days ago

1
Report

Report abuse

Please report any offensive or inappropriate content.

Submit

★

Thank you for taking the time to report content. Our team will review your claim, and contact you if we need more information.

Load more

I care!

Bryan King, Del Valle, TX

32 minutes ago

0

Report

Report abuse

Please report any offensive or inappropriate content.

Submit

Thank you for taking the time to report content. Our team will review your claim, and contact you if we need more information.

The amphitheatre reminds me to look up and understand that God is not confined to church walls. We were always intended to marvel at creation.



Joshua Contreras, Austin, TX

2 hours ago

0

Report

Report abuse

Please report any offensive or inappropriate content.

Submit

Thank you for taking the time to report content. Our team will review your claim, and contact you if we need more information.

Im not a member of this particular church, but it look like a wonderful venue.



Cynthia Keith, Kyle, TX

3 hours ago

0

Report

Report abuse

Please report any offensive or inappropriate content.

Submit

Thank you for taking the time to report content. Our team will review your claim, and contact you if we need more information.

I believe in the Kingdom of God!



Melissa Rodriguez, Austin, TX

3 hours ago

0

Report

Report abuse

Please report any offensive or inappropriate content.

Submit

Thank you for taking the time to report content. Our team will review your claim, and contact you if we need more information.

Great venue for entertainment, adds value to Austin.



YVONNE ESPARZA, Austin, TX

3 hours ago

0

Report

Report abuse

Please report any offensive or inappropriate content.

101/609

Submit

Thank you for taking the time to report content. Our team will review your claim, and contact you if we need more information.

I believe in this church even if I don't go there. This place can be used as a powerful ministry in the community!

★ Jackson Campbell, Jeffersonville, KY

4 hours ago

0

Report

Report abuse

Please report any offensive or inappropriate content.

Submit

Thank you for taking the time to report content. Our team will review your claim, and contact you if we need more information.

I believe

★ Caleb Waller, Driftwood, TX

5 hours ago

0

Report

Report abuse

Please report any offensive or inappropriate content.

Submit

101/610

Thank you for taking the time to report content. Our team will review your claim, and contact you if we need more information.

This has been an amazing outreach for our family, for the community & for our kids! They love dancing to music, watching kids films, worshiping and being free to run around w others!

 Angie Ray, Austin, TX
7 hours ago
0
Report

Report abuse

Please report any offensive or inappropriate content.

Submit

Thank you for taking the time to report content. Our team will review your claim, and contact you if we need more information.

I support the Life Austin amphitheater to remain open to our community as a place to worship and praise.

 Robert Bogart, El Paso, TX
8 hours ago
0
Report

Report abuse

Please report any offensive or inappropriate content.

Submit

Thank you for taking the time to report content. Our team will review your claim, and contact you if we need more information.

101/611

I fully support the Life Austin amphitheater to remain open and available to worship and share our faith.

★ Zicri Bogart, Austin, TX

8 hours ago

0

Report

Report abuse

Please report any offensive or inappropriate content.

Submit

Thank you for taking the time to report content. Our team will review your claim, and contact you if we need more information.

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English (United States) ▼

101/612

This beautiful venue is not only a unique forum for Christian fellowship but also is a Christian-inspired element used for outreach efforts.



Rich Villa, Austin, TX

23 minutes ago

0

Report

Report abuse

Please report any offensive or inappropriate content.

Submit

Thank you for taking the time to report content. Our team will review your claim, and contact you if we need more information.

The LifeAustin Amphitheater has be an inspiration to our family and has touch so many others. This facility has already been invaluable to bringing the Austin community together. Thank you!!



Nikki Kelton, Austin, TX

46 minutes ago

0

Report

Report abuse

Please report any offensive or inappropriate content.

Submit

Thank you for taking the time to report content. Our team will review your claim, and contact you if we need more information.

I cannot begin to imagine anyone trying to oppose a place of worship. Here in America where we are losing so much and Christians are being persecuted for believing in Christ I feel that I must stand up for our right in the church - in the "free" country of America where we can assemble and worship God. The whole point of the Amphitheater is to have a great place to host a variety of Christian programming where we can come together in order to worship God. If God were not real and so

101/613

utterly powerless what does it matter for a group of Christians to assemble in order to worship Him? The amphitheater is the perfect venue. Secular bands, speakers or r rated movies are more worthy than the creator of the universe????



Diana Morris, Austin, TX

56 minutes ago

0

Report

Report abuse

Please report any offensive or inappropriate content.

Submit

Thank you for taking the time to report content. Our team will review your claim, and contact you if we need more information.

Life Austin Amphitheatre is a wonderful way to minister to Christians in our church and in our community.



Barbara Gremillion, Driftwood, TX

1 hour ago

0

Report

Report abuse

Please report any offensive or inappropriate content.

Submit

Thank you for taking the time to report content. Our team will review your claim, and contact you if we need more information.

All city requirements have been met and or exceeded and all qualifying tests were made or observed and approved by city officials. To pull these permits would set a precedent that would open the door to cancel or inhibit any and all live music venues in the city of Austin.



101/614

★ Tim Todd, Austin, TX
1 hour ago
0
Report

Report abuse

Please report any offensive or inappropriate content.

Thank you for taking the time to report content. Our team will review your claim, and contact you if we need more information.

I believe in the power of community and creating conversation through music.

★ Matt Gagnon, Austin, TX
2 hours ago
0
Report

Report abuse

Please report any offensive or inappropriate content.

Thank you for taking the time to report content. Our team will review your claim, and contact you if we need more information.

I believe the Amphitheater is a great contribution to the life and culture of our beautiful city.

★ Marlene Nichols, Austin, TX
2 hours ago
0
Report

Report abuse

Please report any offensive or inappropriate content.

Submit

Thank you for taking the time to report content. Our team will review your claim, and contact you if we need more information.

Austin needs more venues like LifeAustin Amphitheatre that support Christian values and arts.



Cheryl Barnes, Austin, TX

3 hours ago

0

Report

Report abuse

Please report any offensive or inappropriate content.

Submit

Thank you for taking the time to report content. Our team will review your claim, and contact you if we need more information.

I ♥ My Church!



Janet Garcia, Buda, TX

3 hours ago

0

Report

Report abuse

Please report any offensive or inappropriate content.

101/616

Submit

Thank you for taking the time to report content. Our team will review your claim, and contact you if we need more information.

This is a treasure for the city. God uses His creativity to show us His amazing love. I have seen the beauty of the Holy Spirit working here.

★ **Ann Lancaster**, Horseshoe Bay, TX

3 hours ago

0

Report

Report abuse

Please report any offensive or inappropriate content.

Submit

Thank you for taking the time to report content. Our team will review your claim, and contact you if we need more information.

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English (United States) 

101/617

In the interest of any organization developing property in the Austin area, it is crucial that approved city decisions and permitting be honored so that developers can continue with confidence to continue to bring powerful community resources like the LifeAustin Amphitheatre to the city of Austin.



Julie Lyles Carr, Austin, TX

1 day ago

4

Report

Report abuse

Please report any offensive or inappropriate content.

Submit

Thank you for taking the time to report content. Our team will review your claim, and contact you if we need more information.

The LifeAustin Ampitheatre is the PERFECT venue to share the gifts and talents which were given by our creator to share with the Austin community, surrounding counties and beyond to bless others, bring hope and extend transformation beyond the four walls!



Vicky Puckett, Austin, TX

18 hours ago

3

Report

Report abuse

Please report any offensive or inappropriate content.

Submit

Thank you for taking the time to report content. Our team will review your claim, and contact you if we need more information.



I absolutely believe that the amphitheatre contributes to the worship and praise ministries of LifeAustin Church. I have gone to a number of events and have gained a stronger sense of

101/618

community. Without the events, I would not have had the opportunity to express my faith through newer avenues. My belief system reaches farther than just a traditional Sunday service.

★ Eri Contreras, Austin, TX
1 day ago

3
Report

Report abuse

Please report any offensive or inappropriate content.

Submit

Thank you for taking the time to report content. Our team will review your claim, and contact you if we need more information.

The LifeAustin Amphitheatre is an anointed and beautiful place for the community to come together and experience the arts in a manner glorifying to God and in keeping with the spirit and history of our great city. Lives have already been changed in this place, including mine. The city needs to honor and uphold their previous decisions. Austin will be blessed by the outreach that exists here!

★ Lily Kretschmar, Austin, TX
15 hours ago

1
Report

Report abuse

Please report any offensive or inappropriate content.

Submit

Thank you for taking the time to report content. Our team will review your claim, and contact you if we need more information.

★ The Covered Bridge Properly Owners Association has a clear bias towards the church. The matter regarding the amphitheater goes far beyond the legal issue with the City of Austin. Despite what the POA may say publicly, they absolutely have an issue with Life Austin.

101/619

Despite a few rude trouble makers, the community loves Life Austin and the arts. This is evidenced by the overwhelming growth since it opened its doors.

★ **Jim Buck, Austin, TX**

18 hours ago

1
Report

Report abuse

Please report any offensive or inappropriate content.

Thank you for taking the time to report content. Our team will review your claim, and contact you if we need more information.

One of the foundational guiding principles at LifeAustin is creativity. We think & act on the imaginative ideas of the Holy Spirit in all that we do - including the expressions of art, dance, drama & music. All talent is a gift from God. Using the talents God gives us is an act of worship. Our belief in creative worship is founded on the Word of God. Romans 12 tells us that everything we do is a living & holy sacrifice & an acceptable way to worship Him. The LifeAustin Amphitheatre creates a welcoming & non-threatening atmosphere for the Austin community to be able to be ministered to through expressive talents.

★ **Linda Arnold, Austin, TX**

21 hours ago

1
Report

Report abuse

Please report any offensive or inappropriate content.

Thank you for taking the time to report content. Our team will review your claim, and contact you if we need more information.

101/620

This Ampitheatre reaches across the proverbial walls people are apprehensive of approaching. It allows us to be the people our Savior asks to be by giving us the opportunity to love others and welcome them into an environment where they experience the church for what it is supposed to be...welcoming to all at whatever place they are in this life.



Lisa Schellenberg, Johnson City, TX

21 hours ago

1

Report

Report abuse

Please report any offensive or inappropriate content.

Submit

Thank you for taking the time to report content. Our team will review your claim, and contact you if we need more information.

The Life Austin Amphitheater is a state of the art venue designed with great care to minimize noise while providing an enjoyable experience to those in attendance. I have been thoroughly blessed to attend concert there and worship God with the breeze blowing around me and the stars shining above me. It's a unique experience.



Stacey Clements, Leander, TX

22 hours ago

1

Report

Report abuse

Please report any offensive or inappropriate content.

Submit

Thank you for taking the time to report content. Our team will review your claim, and contact you if we need more information.

101/621

I am a member of this church, and it was their recognition of the importance of the arts in worship that in part drew me to it. Life Austin contributes greatly to the Austin community and it would be tragic to see a carefully researched and thought out decision by the city of Austin to approve the facility to now be overturned, resulting in a reduction of the church's ability to serve the community.



Laurie Scott, Austin, TX

23 hours ago

1

Report

Report abuse

Please report any offensive or inappropriate content.

Submit

Thank you for taking the time to report content. Our team will review your claim, and contact you if we need more information.

I strongly believe in the religious mission of the Amphitheater! I have not felt closer to our Creator than watching artistic expression while feeling the wind on my face, the chill in the air, and watching the setting sun change the lighting of the art.



Michael Carr, Austin, TX

24 hours ago

1

Report

Report abuse

Please report any offensive or inappropriate content.

Submit

Thank you for taking the time to report content. Our team will review your claim, and contact you if we need more information.

Load more

I ♥ My Church!

101/622

The LifeAustin Amphitheater is a beautiful place. It goes beyond the traditional church experience, being outside is so refreshing & inviting! I believe this Amphitheater is a wonderful asset to the Austin community. All are welcome! I have been so blessed to attend a place of great love & worship. Let us be a city that will support those that are making a positive outreaching effort to enhance the lives of those in this great community of Austin! The LifeAustin Amphitheater is unique, a place where we can all attend quality events in the nature of our surroundings.



Cheryl Saad, Austin, TX

14 minutes ago

0

Report

Report abuse

Please report any offensive or inappropriate content.

Submit

Thank you for taking the time to report content. Our team will review your claim, and contact you if we need more information.

I don't want to lose this great venue in our community.



Kelly Hopping, Austin, TX

20 minutes ago

0

Report

Report abuse

Please report any offensive or inappropriate content.

Submit

Thank you for taking the time to report content. Our team will review your claim, and contact you if we need more information.

101/623

Cheryl Saad, Austin, TX

34 minutes ago

0

Report

Report abuse

Please report any offensive or inappropriate content.

Submit

Thank you for taking the time to report content. Our team will review your claim, and contact you if we need more information.

Repeat

I don't want to lose this great venue in our community.

Kelly Hopping, Austin, TX

41 minutes ago

0

Report

Report abuse

Please report any offensive or inappropriate content.

Submit

Thank you for taking the time to report content. Our team will review your claim, and contact you if we need more information.

This Amphitheater is a great way to welcome all people to our campus to share the love of God while enjoying the Arts.



David Bryant, Austin, TX

48 minutes ago

0

Report

0
Report

Report abuse

Please report any offensive or inappropriate content.

Submit

Thank you for taking the time to report content. Our team will review your claim, and contact you if we need more information.

LifeAustin's Amphitheater is a resource to touch the lives of the city's diverse population through creative arts. If given the chance, LifeAustinAmp will (and has already) change the trajectory of people's lives.



Devin Skyy Williams, Austin, TX

1 hour ago

0
Report

Report abuse

Please report any offensive or inappropriate content.

Submit

Thank you for taking the time to report content. Our team will review your claim, and contact you if we need more information.

I am a member of this church. All activities at the Amphitheatre are clean and good for all ages. The events are family oriented and God is not rammed down your throat. God is here, but finding Him is between you and Him.



Ron Macha, Buda, TX

3 hours ago

0
Report

101/625

Report abuse

Please report any offensive or inappropriate content.

Thank you for taking the time to report content. Our team will review your claim, and contact you if we need more information.

I'm signing this petition because this ampitheatre is a tremendous blessing to me, our family and friends. It provides good clean Godly entertainment that is inviting to everyone--not just our church. We are an open book. Come and see.

Diane Ela, Austin, TX

3 hours ago

0

Report

Report abuse

Please report any offensive or inappropriate content.

Thank you for taking the time to report content. Our team will review your claim, and contact you if we need more information.

This facility is used for religious assembly!!! The amphitheater is and integral part of the praise and worship at Life Austin Church. This facility creates a community for believers all over central Texas!

Juliana Jacobs, Austin, TX

3 hours ago

0

Report

Report abuse

Please report any offensive or inappropriate content.

101/626

Submit

Thank you for taking the time to report content. Our team will review your claim, and contact you if we need more information.

This venue has been completely compliant with all city regulations. I love this venue! Providing music and arts to the "live music capital of the world " and changing lives!



Lauren Windham, Austin, TX

3 hours ago

0

Report

Report abuse

Please report any offensive or inappropriate content.

Submit

Thank you for taking the time to report content. Our team will review your claim, and contact you if we need more information.

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English (United States) ▼

101/627

"By signing below I hereby recognize and affirm that I am a member of LifeAustin Church. The LifeAustin Amphitheatre is a potential element of the Church's ministry. The Amphitheatre exists to bring transformation to the community through the arts. In signing because, (optional) I am signing because, (optional) brings us closer to the Creator. One of the Church's guiding principles is to think and act on the imaginative ideas of the Holy Spirit in all that it does, including the expression of art, dance, drama, and music. The arts are a part of the way in which members of the Church prepare their hearts and minds to hear the word and to respond to that word."

Letter to
City of Austin Staff Liaison-Board of Adjustment Leane Heldenfels
Re: Case number C15-2015-0147

First name
Last name
Email

"By signing below I hereby recognize and affirm that I am a member of LifeAustin Church. The LifeAustin Amphitheatre is an essential element of
Read more

Updates

Street address

- 1. 1 hour ago
50 supporters
- 2. 6 days ago
LifeAustin started this petition

Supporters

Top comments

In the interest of any organization developing property in the Austin area, it is crucial that approved city decisions and permitting be honored so that developers can continue with confidence to continue to bring powerful community resources like the LifeAustin Amphitheatre to the city of Austin.

Julie Lyles Carr, Austin, TX
2 hours ago
2
Report

Report abuse

Please report any offensive or inappropriate content.

Thank you for taking the time to report content. Our team will review your claim, and contact you if we need more information.

The LifeAustin Amphitheater is an incredible resource that will bring social and spiritual change to the City of Austin. The BOA should uphold all permitting associated with this development.



Kevin Casteel, Austin, TX
46 minutes ago
1
Report

Report abuse

Please report any offensive or inappropriate content.

101/628

community. Without the events, I would not have had the opportunity to express my faith through newer avenues. My belief system reaches farther than just a traditional Sunday service.

Repeat

Eri Contreras, Austin, TX

50 minutes ago

1
Report

Report abuse

Please report any offensive or inappropriate content.

Submit

Thank you for taking the time to report content. Our team will review your claim, and contact you if we need more information.

I fully support life Austin and the amphitheater for the support of wholesome family entertainment and worship. Our city needs more Christian values.

★

Sandra Buck, Austin, TX

10 minutes ago

0
Report

Report abuse

Please report any offensive or inappropriate content.

Submit

Thank you for taking the time to report content. Our team will review your claim, and contact you if we need more information.

I love the LifeAustin Amphitheatre, and it's a great asset to our community!

★

Michelle Pullins, Austin, TX

10 minutes ago

0

101/629

Report

Report abuse

Please report any offensive or inappropriate content.

Submit

Thank you for taking the time to report content. Our team will review your claim, and contact you if we need more information.

This amphiheater is an an incredible addition and resource to the community providing opportunity to worship our Lord and provide opportunity for church and community members to share their God given talents.



Belinda Reinis, Austin, TX

21 minutes ago

0

Report

Report abuse

Please report any offensive or inappropriate content.

Submit

Thank you for taking the time to report content. Our team will review your claim, and contact you if we need more information.

I'm invested not just financially in this award-winning venue, but more importantly heart and soul for the extraordinary benefit this site is to the Austin community.



Nev Nicholson, Austin, TX

23 minutes ago

0

Report

101/630

Report abuse

Please report any offensive or inappropriate content.

Submit

Thank you for taking the time to report content. Our team will review your claim, and contact you if we need more information.

I strongly believe in the religious mission of the Amphitheater! I have not felt closer to our Creator than watching artistic expression while feeling the wind on my face, the chill in the air, and watching the setting sun change the lighting of the art.



Michael Carr, Austin, TX

27 minutes ago

0

Report

Report abuse

Please report any offensive or inappropriate content.

Submit

Thank you for taking the time to report content. Our team will review your claim, and contact you if we need more information.

Life Austin is my home church and has changed the lives of my family and so many around me. The Amphitheater has been a tremendous part of that effort and has permitted a level of worship previously unavailable. To discontinue this would be a significant disservice to the church community.



Rachel Duck, Gonzales, TX

36 minutes ago

0

Report

101/631

Report abuse

Please report any offensive or inappropriate content.

Submit

Thank you for taking the time to report content. Our team will review your claim, and contact you if we need more information.

As a professional in the Construction and Development Industry, I believe that COA approvals and permitting should be upheld so as not to deter future growth and development in this area.



JoEllen Eggert, Cedar Park, TX

46 minutes ago

0

Report

Report abuse

Please report any offensive or inappropriate content.

Submit

Thank you for taking the time to report content. Our team will review your claim, and contact you if we need more information.

I have already enjoyed worshipping God on September 4, 2015. This structure is a great blessing to the community!



Stephanie Rivers, Austin, TX

52 minutes ago

0

Report

Report abuse

Please report any offensive or inappropriate content.

Submit

Thank you for taking the time to report content. Our team will review your claim, and contact you if we need more information.

In the interest of any organization developing property in the Austin area, it is crucial that approved city decisions and permitting be honored so that developers can continue with confidence to continue to bring powerful community resources like the LifeAustin Amphitheatre to the city of Austin.



David Estes, Dripping Springs, TX

55 minutes ago

0

Report

Report abuse

Please report any offensive or inappropriate content.

Submit

Thank you for taking the time to report content. Our team will review your claim, and contact you if we need more information.

This is my church. This is where we praise the Lord, have worship services, women's conferences, youth events and more!



Stephanie Warner, Austin, TX

59 minutes ago

0

Report

Report abuse

Please report any offensive or inappropriate content.

101/633

Submit

Thank you for taking the time to report content. Our team will review your claim, and contact you if we need more information.

The ampitheatre is a great facility with a great purpose. Why would you take that away from us?



Kristal Hess, Austin, TX

1 hour ago

0

Report

Report abuse

Please report any offensive or inappropriate content.

Submit

Thank you for taking the time to report content. Our team will review your claim, and contact you if we need more information.

This ampatheater is a family friendly safe place and brings the Austin community together to share in love and positivity.



Lindsey Crouch, Austin, TX

1 hour ago

0

Report

Report abuse

Please report any offensive or inappropriate content.

Submit

Thank you for taking the time to report content. Our team will review your claim, and contact you if we need more information.

I believe Life Austin has been called by God to provide this venue to the people and the city of Austin.



Carolyn Kahler, Driftwood, TX

1 hour ago

0

Report

Report abuse

Please report any offensive or inappropriate content.

Submit

Thank you for taking the time to report content. Our team will review your claim, and contact you if we need more information.

This amphitheater is very meaningful to myself and my loved ones and I believe it is an asset to our community and spreading love and community around us.



Landry Jones, Denver, CO

1 hour ago

0

Report

Report abuse

Please report any offensive or inappropriate content.

Submit

Thank you for taking the time to report content. Our team will review your claim, and contact you if we need more information.

I believe this is a good thing for the community. Gives people something wholesome to be apart that is in close proximity.



Donald Trub, Austin, TX

2 hours ago

101/635

0
Report

Report abuse

Please report any offensive or inappropriate content.

Thank you for taking the time to report content. Our team will review your claim, and contact you if we need more information.

I fully support the LifeAustin Amipetheatre! This venue has enriched my worship experience at LifeAustin and is a wonderful venue that's open to other groups in the Austin community. It's a beautiful and meaningful place.



Shandalin Mulig, Austin, TX

2 hours ago

0
Report

Report abuse

Please report any offensive or inappropriate content.

Thank you for taking the time to report content. Our team will review your claim, and contact you if we need more information.

This is a religious venue and should be able to continue reaching people for Christ without obstruction.



Montie Smith, Driftwood, TX

2 hours ago

0
Report

101/636

Report abuse

Please report any offensive or inappropriate content.

Submit

Thank you for taking the time to report content. Our team will review your claim, and contact you if we need more information.

I'm signing so we can continue to reach the gospel to lost.



Anita Robledo, Buda, TX

2 hours ago

0

Report

Report abuse

Please report any offensive or inappropriate content.

Submit

Thank you for taking the time to report content. Our team will review your claim, and contact you if we need more information.

God needs to be Amplified! Let His praises be heard!



Rebecca Rocha, Austin, TX

2 hours ago

0

Report

Report abuse

Please report any offensive or inappropriate content.

Submit

Thank you for taking the time to report content. Our team will review your claim, and contact you if we need more information.

The amphitheater exists to bring people of all cultures, backgrounds, and life situations together to enjoy music, art, and the Holy Spirit in a fun, safe, accepting environment.



Meagan Medeiros, Austin, TX

2 hours ago

0

Report

Report abuse

Please report any offensive or inappropriate content.

Submit

Thank you for taking the time to report content. Our team will review your claim, and contact you if we need more information.

I believe this is a great venue for all of the citizens of ATX



Karen Markham, Austin, TX

2 hours ago

0

Report

Report abuse

Please report any offensive or inappropriate content.

Submit

101/638

Thank you for taking the time to report content. Our team will review your claim, and contact you if we need more information.

Rules and permits were followed.



Katie Hallberg, Austin, TX

2 hours ago

0

Report

Report abuse

Please report any offensive or inappropriate content.

Submit

Thank you for taking the time to report content. Our team will review your claim, and contact you if we need more information.

This structure is for religious assembly.



Robert Wickman, Austin, TX

2 hours ago

0

Report

Report abuse

Please report any offensive or inappropriate content.

Submit

Thank you for taking the time to report content. Our team will review your claim, and contact you if we need more information.



I want the decision to be upheld. The amphitheater is an asset to the community and a vital part of serving its church members and their families providing a place to worship and fellowship.



Kiera True, Austin, TX

2 hours ago

0

Report

Report abuse

Please report any offensive or inappropriate content.

Thank you for taking the time to report content. Our team will review your claim, and contact you if we need more information.



The amphitheater is good for the church and community.

James Boski, Austin, TX

2 hours ago

0

Report

Report abuse

Please report any offensive or inappropriate content.

Thank you for taking the time to report content. Our team will review your claim, and contact you if we need more information.

The LifeAustin Amphitheater is a vital part of our ministry and plays a significant role in outreach to the community and worship.



Brock Stamps, Austin, TX

2 hours ago

0

Report

101/640

Report abuse

Please report any offensive or inappropriate content.

Submit

Thank you for taking the time to report content. Our team will review your claim, and contact you if we need more information.



I want the BOA to uphold Mr Guernsey's decision and honor the City's representations

Johnathon 'Bud' Denson, Austin, TX

3 hours ago

0

Report

Report abuse

Please report any offensive or inappropriate content.

Submit

Thank you for taking the time to report content. Our team will review your claim, and contact you if we need more information.



I want the BOA to uphold Greg Guernsey's decision and honor the City's representations.

Katherine Broughton, Austin, TX

4 hours ago

0

Report

Report abuse

Please report any offensive or inappropriate content.

101/641

Submit

Thank you for taking the time to report content. Our team will review your claim, and contact you if we need more information.



I want the BOA to uphold Greg Guernsey's decision and honor the City's representations.

Dennis Broughton, Austin, TX

6 days ago

0

Report

Report abuse

Please report any offensive or inappropriate content.

Submit

Thank you for taking the time to report content. Our team will review your claim, and contact you if we need more information.

Load more

Repeat

I fully support life Austin and the amphitheater for the support of wholesome family entertainment and worship. Our city needs more Christian values.

Sandra Buck, Austin, TX

10 minutes ago

0

Report

Report abuse

Please report any offensive or inappropriate content.

Submit

Thank you for taking the time to report content. Our team will review your claim, and contact you if we need more information.



I love the LifeAustin Amphitheatre, and it's a great asset to our community!

Michelle Pullins, Austin, TX

10 minutes ago

0

Report

Report abuse

Please report any offensive or inappropriate content.

Submit

Thank you for taking the time to report content. Our team will review your claim, and contact you if we need more information.



This amphiheater is an an incredible addition and resource to the community providing opportunity to worship our Lord and provide opportunity for church and community members to share their God given talents.

Belinda Reinis, Austin, TX

21 minutes ago

0

Report

Report abuse

Please report any offensive or inappropriate content.

Submit

Thank you for taking the time to report content. Our team will review your claim, and contact you if we need more information.

Heldenfels, Leane

From: John Wilkinson-Kerrigan [REDACTED]
Sent: Wednesday, November 18, 2015 10:01 AM
To: Heldenfels, Leane
Subject: Life Austin Amphitheater- BoA Hearing - C15-2015-0147
Attachments: image1.png; ATT00001.txt; image2.png [REDACTED]

Hi there

I have provided an email previously on behalf of my family but would like to follow up given new information.

It has come to our attention that Pastor Phillips has sent his entire congregation the messages below in hopes of garnering more support than detraction for his unlawful outdoor and commercial venue.

Given the number of people that attend his church, we are concerned that our voices, the voices of those living within ear shot of his concert venue, will not be heard. Those that attend his church don't live in our neighborhood. In fact, the majority don't even live in Oak Hill. This tactic isn't just unfair, it's unjust. They were warned of the potential that their use permit could be retracted yet they continued with construction.

We hear the music every time there's an event. We hear it outside and inside our home. If the venue was for praise and worship, why does the volume need to be so loud? If in fact that was their real concern, I'd imagine they would be ok with a volume that doesn't go beyond their property. Certainly the sound system they invested in can ensure all attendees can hear.

No. The fact of the matter is that it's a commercial venue for the pastor's own band and for other music acts who want to use it. They charge for tickets - at the very minimum - making it a commercial venue. No one should need to pay for praise and worship.

Thank you for your time.

John Wilkinson
7120 Covered Bridge Drive

Life Austin Noise

 Elizabeth Willmore
Aviara

A friend is on their mailing list and gave me permission to post the following - I've removed identifying data. We can hear the noise on certain nights, but are not deeply affected. However, those who are may wish to consider coordinating an effort similar to this:

Fellow Member of Life Austin Church,

A hearing is scheduled December 9th before the City of Austin Board of Adjustment concerning some neighbor complaints that the praise and worship services which include concerts and related activities being held in the LifeAustin Amphitheatre do not qualify as religious worship and that the BoA should overturn and reverse years of City approvals, contracts and permits and stop this activity.

Please prayerfully consider writing a letter to the BoA describing how you believe the amphitheatre contributes to the worship and praise ministries of Life Austin, encouraging the board to reject the argument that it is not religious assembly and allow the continuation of religious assembly as the primary use of the Amphitheatre.

1). Write a letter to:

Leane Heldenfelds

the Amphitheatre.

1). Write a letter to:

Leane Heldenfelds

Staff Liaison - BOA

Please reference case number C15-2015-0147 in subject line.

2). Please forward the letter no later than Friday, November 20th to:

xxx@lifeaustin.com

Your letter will be compiled with other materials and submitted to the BOA for their review prior to the hearing.

We also ask for your prayers that God will defeat those who would limit or prevent worship and sharing of the gospel in the Amphitheatre.

Thank you very much!

Blessings,

XXX

Posted 1d ago to Aviara and 19 nearby



★ THANK ↩ REPLY

3 THANKS 5 REPLIES

 John Horrall, Windmill Run North

No one wants to prevent worship, just stop using a church to hide a commercial and obnoxious venue.

Heldenfels, Leane

From: Travis Lucas [REDACTED]
Sent: Tuesday, November 17, 2015 4:31 PM
To: Heldenfels, Leane
Cc: Liz Lucas
Subject: LifeAustin - case number: C15-2015-0147 [REDACTED]

Ms. Heldenfels:

My name is Travis Lucas. I live at 7309 Black Mountain Drive, Austin, Texas (in the Covered Bridge subdivision).

I support Life Austin's amphitheater. I am not a member of the church, by the way.

I believe that the church went through the proper protocol in getting their permit (as far as I can tell as a former real estate attorney and judge). The amphitheater adds tremendous value to the surrounding neighborhoods in that it adds more cultural experiences: music, dance, plays, and the like. The music is not loud from where I live. (I don't live near the boundaries of the church.)

I have not taken a scientific survey of my neighborhood, but I believe, through my discussions with some neighbors, that a lot of folks are not opposed to the amphitheater. It seems as if there are a select few dissidents.

Finally, I was not aware that my own POA was against the amphitheater. I was never informed that my POA would be taking a vote to take action against LifeAustin. If there are any "unclean hands" regarding due process (one of the arguments that the dissidents seem to make), I believe that my own POA is the grimy actor.

Thank you for reading this.

Cordially,

Travis Lucas

Heldenfels, Leane

From: Donald P Ward MD [REDACTED]
Sent: Monday, November 16, 2015 2:00 PM
To: Heldenfels, Leane
Cc: sherikleeman@austin.rr.com
Subject: Life Austin Ampitheater

To: Board of Adjustment

From: Donald P. Ward Hill Country Estates

Case #: C15-2015-0147

My wife and I have lived in Hill Country Estates form many years. We never had a problem with noise until Life Austin came to be. The noise is a major issue to the residents of Hill Country Estates. As you know many of our residents have complained about the noise. They have appealed to you to keep the volume down to a decent level, but this has not happened.

I am asking the BOA to grant the appeals filed by Hill Country Estates HOA and the Covered Bridge POA. The great majority of our residents are disturbed by the persistent noise violations.

Donald P. Ward
Hill Country Estates resident
512-750-2926
[REDACTED]

Heldenfels, Leane

From: Marjorie [REDACTED]
Sent: Monday, November 16, 2015 9:14 AM
To: Heldenfels, Leane
Subject: Life Austin Amphitheater

This is a gross injustice. Why would the city zone the amphitheater as residential when clearly the church is using it as a commercial money maker! This sets an extremely bad precedence! They must have someone at the city in their pocket, either that or there was an extremely incompetent person issuing permits. Does the city really want this reputation? Please reverse this decision in favor of the residents.

Sent from my iPhone

Heldenfels, Leane

From: Harry Stamatis [REDACTED]
Sent: Sunday, November 15, 2015 8:32 PM
To: Heldenfels, Leane
Subject: Life Church Case # C15-2015-0147 8901 SH 71 West, Austin Texas 78736
[REDACTED]

Dear Leane Heldenfels,

I am writing to you requesting that the Board of Adjustment grant the appeals filed by Hill Country Estates HOA and the Covered Bridge POA of which I am a member. Also I would please like to request the Board of Adjustment to direct staff to forward the Temporary Use Permit appeal filed by Hill Country Estates HOA and the Covered Bridge POA to the BOA.

Sincerely yours,

Harry & Patrice Stamatis
7704 Covered Bridge Dr.
Austin, Tx 78736

Heldenfels, Leane

From: Jason Clendenen [REDACTED]
Sent: Sunday, November 15, 2015 7:57 PM
To: Heldenfels, Leane
Subject: C15-2015-0147
[REDACTED]

Hello:

I am a property owner in the Covered Bridge subdivision. I have concerns about the amphitheater at 8901 SH 71 West.

We are concerned about the noise levels from this venue. While I don't want to be unreasonable and believe that the church has a right to hold events on their property, I hope that there will be noise restriction requirements (either by construction or by self-restraint) such that the sound does not reach our house (inside or out).

We moved to the area to have a quiet home in a quiet neighborhood, and having constant concerts nearby will take away from the area's charm, value, and quality of life.

Please consider adding restrictions to the venue to prevent it from being a nuisance to its neighbors.

Thanks,

Jason Clendenen

Heldenfels, Leane

From: Betsy Boyt [REDACTED]
Sent: Thursday, November 12, 2015 4:52 PM
To: Heldenfels, Leane
Subject: [Released] Case No. C15-2015-0147; 8901 SH 71 West, Austin, Texas 78736
[REDACTED]

Ms. Heldenfels:

I write to ask the Board of Adjustment to grant the appeal filed by Hill Country Estates HOA and the Covered Bridge POA in regards to the above referenced and numbered case.

I also ask the Board of Adjustment to direct staff to forward the Temporary Use Permit appeal filed by Hill Country Estates HOA and Covered Bridge POA to the Board of Adjustment.

Sincerely,

Elizabeth (Betsy) Boyt
OHAN Board Member

Heldenfels, Leane

From: [REDACTED]
Sent: Wednesday, November 11, 2015 3:13 PM
To: Heldenfels, Leane
Cc: dalomala@earthlink.net
Subject: case no. C15-2015-0147, LifeAustin Amphitheater

re: the LifeAustin amphitheater located at 8901 SH 71 West, case number C15-2015-0147

LifeAustin built a professional amplified outdoor music and events venue in our Rural Residential zoned neighborhood. Code clearly prohibits such activities and facilities in residential areas.

We, the residents of West Oak Hill, have been suffering noise intrusion inside our homes from the outdoor amplified music venue at the LifeAustin complex, since the summer. Sometimes, we are subject to loud events 3 nights a week: Friday, Saturday, and Sunday. Young children can't get settled in to sleep, and neighborhood dogs react to the noise as if it were fireworks or thunder. In my own home several blocks away from the music venue, I have put insulating foam over the windows in my bedroom furthest from the amphitheater. Yet, I can hear their sound (and audience whooping in response) even over a movie soundtrack. Reading or study is impossible during these events, and being in our yards is out of the question. There is no escaping the high-powered sound. Neighbors are very stressed, and are denied the peaceful enjoyment of our property. We fear also for our property values.

The construction of this professional amphitheater is a result of the City's inappropriate handling of filings these past several years. Staff set a precedent with administrative approval of both the amphitheater and mass assembly without temporary use permits. We have had no public hearing, no zoning hearing, and our appeals have been stonewalled. These same issues-- outdoor music venues and mass assembly in residential zones-- can now have a huge negative impact on residential properties throughout the greater Austin area.

Accordingly, I am respectfully asking the Board of Adjustment to take several actions:

- Grant the site plan and building permit appeals filed by HCEHOA and Covered Bridge POA ("CBPOA"); and
- Instruct City staff to forward the Temporary Use Permit appeal filed by HCEHOA and CBPOA to the Board of Adjustment.

Thank you

Heldenfels, Leane

From: Renee Cook [REDACTED]
Sent: Tuesday, November 10, 2015 6:47 PM
To: Heldenfels, Leane
Subject: Case number C15-2015-0147

Dear Ms. Heldenfels,

I am writing this as a concerned citizen of Hill Country Estates. We have lived in this peaceful community for over 18 years, but now that has changed. With the recent addition of the Life Austin Ampitheater at 8901 SH 71 West into this rural residential area, that peace is now disrupted. I do not object to a church on the property, but I do not like hearing concerts inside my own home. Please consider the concerns of the surrounding neighborhoods in regard to this issue. We are asking that the Board of Adjustment grant the appeals filed by Hill Country Estates HOA and Covered Bridge POA and to direct staff to forward the TUP appeal filed by Hill Country Estates HOA and Covered Bridge POA to the Board of Adjustments.

Thank you for your attention to this matter.

Regards,
Renee Cook
9403 Summer Sky Dr.
Austin, Texas 78736

Sent from my iPhone

Heldenfels, Leane

From: Cary Buerkle [REDACTED]
Sent: Tuesday, November 10, 2015 1:57 PM
To: Heldenfels, Leane
Subject: Case #C15-2015-0147 Amphitheater address 8901 SH 71 West.
[REDACTED]

To whom this may concern:

We are asking for the Board of Adjustment to grant the appeals filed by Hill Country Estates HOA and Covered Bridge POA. We are also asking the Board of Adjustment to direct staff to forward the TUP appeal filed by Hill Country Estates HOA and the Covered Bridge POA to the BOA.

Thank you
Gus & Cary Buerkle
9600 Streamside Drive
Austin 78736

Heldenfels, Leane

From: Cheryl Degan [REDACTED]
Sent: Tuesday, November 10, 2015 1:49 PM
To: Heldenfels, Leane
Subject: Life Austin cas C15-2015-0147

Dear Ms. Heldenfelds,

I am a resident of the Overlook Estates in Southwest Austin. We are frequently annoyed by the loud music of the Life Austin church in our peaceful neighborhood.

I want them to stop playing their ridiculously loud music. All we get is the base beat but I moved there to be near the nature conservancy and the peace and quiet it affords.

CHERYL DEGAN, CPA
Chief Financial Officer
Office of Texas Governor Greg Abbott
(512) 936-0157 - direct
cheryl.degan@gov.texas.gov

Heldenfels, Leane

From: Janet Foote [REDACTED]
Sent: Monday, November 09, 2015 4:11 PM
To: Heldenfels, Leane
Subject: Fwd: PLEASE SEND AN EMAIL TODAY - LifeAustin: 8901 SH 71 West - Case number: C15-2015-0147

Dear Ms. Heldenfels,

I am contacting you in your capacity as staff liaison for the Austin Board of Adjustment (BOA). I have been a Covered Bridge community resident since 2008 and have lived through years of frustration with the intrusive behavior of Promiseland West/Life Austin Church and their determination to install an open air music venue with permanent sound amplification and a heavy schedule of events, including late night concerts, in the middle of our Rural Residential (RR) zoned neighborhood. This intrusion was inappropriately and illegally enabled and abetted by the City of Austin Planning and Zoning Department and its director, Greg Guernsey, refusing to forward our appeals of their decisions to the BOA, as required by law.

The Covered Bridge and Hill Country Estates neighborhoods have suffered with this intrusion for years. The neighborhoods have had to spend large sums of money trying to stop the building of the amphitheater and to contest the vacillating decision and obstruction presented by Mr. Guernsey and other city staff. We have had multiple meetings with the church and offered many reasonable options, none of which were adopted. Now that the church has proceeded with building and operating this illegal music venue, residents in these neighborhoods and others are having to deal with these intrusive sounds in their homes with doors and windows closed!

Please help us make this right by the following requests:

- I ask the Board of Adjustment to GRANT the appeals filed by Hill Country Estates HOA and the Covered Bridge POA
- I ask the Board of Adjustment to direct city staff to forward the Temporary Use Permit appeal filed by Hill Country Estates HOA and Covered Bridge POA to the BOA
- The hearing on the site plan and building permit appeals is currently on the BOA agenda for November 9, 2015 at 5:30 pm in City Council chambers. I ask that the request by the neighborhoods to postpone the hearing until December 9, 2015 be granted

Thank you,

Janet Foote
7308 Covered Bridge Drive
Austin, TX 78736

Heldenfels, Leane

From: Juergen <[REDACTED]>
Sent: Monday, November 09, 2015 3:24 PM
To: Heldenfels, Leane; Juergen
Subject: Case #: C15-2015-0147; address: Life Austin, 8901 SH 71 West

Dear Ms. Heldenfels,
My wife and I are residents of Hill Country Estates subdivision, we live in 9501 Murmuring Creek Drive.

I'm writing you today to express my and my wife's feelings and experience with the noise of the amphitheatre at the Life Austin property.
Despite the fact that our house is quite a distance from the amphitheatre we are able to hear music from there quite often. It of course depends on how the wind blows it's sometimes more and sometimes less. If the wind blows in the "right" direction, the noise is quite annoying!
However we cannot imagine the noise and loudness it will have with neighbors who live closer to the amphitheatre.

The thing which bothers us most is the fact that according to the zoning code it is illegal to build and entertain outdoor assembly in that area. We consider Life Austin as a religious place, where Christian services are held. As a Christian we also must assume that the property is used in conjunction with Christian beliefs and values. Why can somebody who call himself a Christian and at the same time do something deemed illegal? This doesn't add up.

Our second concern is that our property values in the entire neighborhood may certainly become negatively influenced by having to endure constant and regular noise from the amphitheatre. We live in the neighborhood since 1994 and paid more than \$100,000 in property taxes. We want to make sure our properties keep their values, because otherwise it could bring financial hardships to potential sellers.

We like you and the BOA to consider those aspects very seriously in your decision making process and hope that the decision will be based on following the laws as they are outlined in the City Codes.

Best regards,
Juergen & Maria Lutz

PUBLIC HEARING INFORMATION

Although applicants and/or their agent(s) are expected to attend a public hearing, **you are not required to attend**. However, if you do attend, you have the opportunity to speak **FOR** or **AGAINST** the proposed application. You may also contact a neighborhood or environmental organization that has expressed an interest in an application affecting your neighborhood.

During a public hearing, the board or commission may postpone or continue an application's hearing to a later date, or recommend approval or denial of the application. If the board or commission announces a specific date and time for a postponement or continuation that is not later than 60 days from the announcement, no further notice will be sent.

A board or commission's decision may be appealed by a person with standing to appeal, or an interested party that is identified as a person who can appeal the decision. The body holding a public hearing on an appeal will determine whether a person has standing to appeal the decision.

An interested party is defined as a person who is the applicant or record owner of the subject property, or who communicates an interest to a board or commission by:

- delivering a written statement to the board or commission before or during the public hearing that generally identifies the issues of concern (*it may be delivered to the contact person listed on a notice*); or
- appearing and speaking for the record at the public hearing; and:
- occupies a primary residence that is within 500 feet of the subject property or proposed development;
- is the record owner of property within 500 feet of the subject property or proposed development; or
- is an officer of an environmental or neighborhood organization that has an interest in or whose declared boundaries are within 500 feet of the subject property or proposed development.

A notice of appeal must be filed with the director of the responsible department no later than 10 days after the decision. An appeal form may be available from the responsible department.

For additional information on the City of Austin's land development process, visit our web site: www.austintexas.gov/devservices.

Written comments must be submitted to the contact person listed on the notice before or at a public hearing. Your comments should include the name of the board or commission, or Council; the scheduled date of the public hearing; the Case Number; and the contact person listed on the notice. All comments received will become part of the public record of this case.

Case Number: C15-2015-0147, 8901 D. Hwy 71 West

Contact: Leane Heldenfels, 512-974-2202, leana.heldenfels@austintexas.gov

Public Hearing: Board of Adjustment, November 9th, 2015**
when the Board will vote on a request to postpone the hearing to a special called meeting **Wednesday December 9th, 2015.**

Michael Taylor
Your Name (please print)

I am in favor
 I object

9203 Claxton Dr
Your address(es) affected by this application

Your address(es) affected by this application

Signature

11/4/2015
Date

Daytime Telephone: 512-731-4616

Comments: The 'church' has built a commercial live music venue which blasts the entire neighborhood with sound. Instead of selling tickets they have suggested donations to cover the \$15,000 fee that artists charge. This is a ploy to call this a religious assembly to grow their revenue stream. They can assemble quickly indoors.

Note: all comments received will become part of the public record of this case

If you use this form to comment, it may be returned up until noon the day of the hearing to:

City of Austin-Development Services Department/ 1st Floor

Leane Heldenfels

P. O. Box 1088

Austin, TX 78767-1088

Fax: (512) 974-6305

Scan & Email to: leana.heldenfels@austintexas.gov

101/658

To the City of Austin Board of Adjustors,

I have discovered that some want to argue a point that the Life Austin Amphitheatre is not consistently hosting events that apply to praise & worship. As in many circumstances, I would argue that this group of opposition has not carefully researched what is taking place at this location. If they had done this diligence they would not moved forward with this objection.

If even the slightest bit of objectivity is used, any critical-minded individual would clearly observe that the primary use of the Life Austin Amphitheatre is to serve its members and the community in praise & worship and the facility in which to exercise the freedom of religious assembly.

Furthermore, I find it (these objections) insulting to the Board's processes, intelligence. No facility of such function and capacity is not very well considered prior to its approval.

Sincerely, Dr. Roger Bolón



MEMORANDUM

To: William Burkhardt, Chair and
Members of the Board of Adjustment

From: Gregory I. Guernsey, AICP, Director
Planning and Zoning Department 

Date: November 23, 2015

Subject: Case No.: C15-2015-0147
Project: LifeAustin Church (formerly known as PromiseLand West)
Location: 8901 State Highway 71 West
Appellants: Kim Butler and the Hill Country Estates Home Owners
Association, and Frank Goodloe and the Covered Bridge Property
Owners Association.

This is a response to an appeal of a zoning use determination and related development permits approved by Mr. Gregory Guernsey, Director of Planning & Zoning Department, who was the previous Director of the Planning & Development Review Department.

Consistent with the City's Land Development Code, the director is authorized to determine how to classify a proposed land use or activity within the various "use classifications" defined by the Code. The director makes a use determination based on the characteristics of the proposed use and the similarities, if any, of the use to other defined land uses.

How a land use is classified can effect whether it is prohibited, allowed, or conditional within a particular zoning district. The main issue in this case is whether the outdoor amphitheater located at LifeAustin Church is appropriately considered part of the overall "religious assembly" use, which is allowed under the site's Rural Residence (RR) zoning district, or is more appropriately regarded as "outdoor entertainment," which is not allowed or a community recreation use which is allowed with a conditional use permit.

This response addresses the Appellants' appeal of the use determination, as well as related development permits and associated conditions on use of the amphitheater building. However, this response does not address other non-zoning issues raised by the Appellants, such as sound amplification permits that are currently handled by another City Department, other alleged code violations or other appeals recently filed by adjacent property owners.

BACKGROUND

A. Zoning Use Determinations

A zoning use determination is usually requested by a property owner or a representative of a property owner seeking confirmation or a determination of how a proposed use is defined in the Code and whether it is permitted, prohibited, or allowed conditionally on their property.

In most cases, how to classify a land use is clear under Code and there is little room for interpretation. Uses like auto sales, medical office or pet stores all fit clearly into specific uses categories defined in the Land Development Code. Some land uses, however, may not be perfectly defined or may conceivably fall within more than one category. Where that's the case, the director must classify a proposed use based on its similarities to other land uses that are more specifically defined in Code.

Use determinations are important to a property owner because they become the basis for the design of a site plan that will locate future improvements on a property (such as buildings, parking, landscaping, drainage and water quality facilities, etc.) and/or the design of a building on a site. As mentioned above, a use determination can also effect whether or not a particular use is allowed on a property.

Use determinations are usually done informally by various City staff concurrent with the review of a site plan, site plan exemption, or a building permit application. In some cases, however, an applicant may request that a more formal use determination be made prior to submittal of a development application. This type of formal, pre-application use determination is often requested if a proposed use straddles the line between different use categories, such that an applicant wants some certainty as to the department's position before designing the project.

The City Council adopted a code amendment in April 2012 that requires public notice for certain use determinations was adopted by ordinance in April 2012.¹ However, since the use determination for the amphitheater building at LifeAustin Church was made in 2008, prior to adoption of the 2012 ordinance, no public notice was required for that determination. In addition, while State law does require notice for a rezone or an amendment to the text of municipal zoning regulations, it has never—either now or in 2008—required public notice for a zoning use determination.

The Board of Adjustment (BOA) has legal authority to hear appeals of use determinations and to uphold, reverse, or modify a determination by the director. Over the years, the BOA has heard numerous use determination appeals.

¹ See Ordinance No. 20120426-122, accessible electronically at: <http://www.austintexas.gov/edims/document.cfm?id=169593>

B. The 2008 LifeAustin Use Determination and Related Approvals

On December 17, 2008, Mr. Carl Conley, the agent for PromiseLand West Church, sent Director Greg Guernsey a request for a use determination. In his request, Mr. Conley described the uses proposed on the property, including a 3,500-seat indoor multi-use building, chapel, and associated amphitheater building with a smaller 1,000-seat capacity. Mr. Conley's letter states that the activities in the larger indoor building that is used as the sanctuary would be "...the exact same type of activities...." that would take place in the amphitheater.

On December 23, 2008, Director Guernsey responded with a determination that the proposed amphitheater building and associated structure were "religious assembly" uses and thereby permitted within the Rural Residential (RR) zoning district. Director Guernsey's determination also set forth several conditions delineating the limitations of what could be considered "religious assembly" uses of the amphitheater building.

Beginning in 2011, PromiseLand West's successor entity, LifeAustin Church, began obtaining development approvals for construction of an indoor multi-use (sanctuary) building, outdoor amphitheater building, chapel, and related development on the property. As discussed more fully below, approval of the site plan was conditioned on recording a restrictive covenant, previously offered by the church, to tie-down some of the restrictions necessary to ensure that use of the amphitheater building would be consistent with a religious assembly use.

It should be noted that, in 2013, the City Council amended the Land Development Code to require that any outdoor amphitheater associated with a residential or civic use obtain a conditional use permit from the Land Use Commission. At the time LifeAustin submitted its site plan application for the amphitheater building, however, that ordinance was not in effect, so approval of the amphitheater building was solely administrative.

RESPONSE TO LIFEAUSTIN'S APPEAL

Under the BOA's Rules of Procedure, the BOA must find that "there is reasonable doubt or difference of interpretation" in order to overturn a decision by the director in a use determination or code interpretation appeal. As explained below, there is no basis for finding reasonable doubt or difference of interpretation with respect to the use determination or related development approvals.

1. Staff disagrees that "there is reasonable doubt or difference of interpretation" as to the specific intent of the regulations regarding "Religious Assembly" use.

The several appeals now before the BOA address the initial 2008 use determination as well as the site plan, restrictive covenant, and associated development approvals for the outdoor amphitheater. Fundamentally, however, the appeals boil down to a disagreement with the Director Guernsey's determination that the outdoor amphitheater is part of a "religious assembly" land use and not an outdoor entertainment or community recreation use.

The Director disagrees with the Appellants' position that an amphitheater associated with the indoor multi-use (including sanctuary) building of the size and scale of LifeAustin Church can be considered anything but religious assembly, provided that the uses occurring in the amphitheater are consistent with the activities customarily occurring within the indoor multi-use building or other primary structure devoted to worship-related activities. Under City Code § 25-2-6(41), "religious assembly" is classified as a "civic" use and is specifically defined:

regular organized religious worship or religious education in a permanent or temporary building. The use excludes private primary or secondary educational facilities, community recreational facilities, day care facilities, and parking facilities. A property tax exemption is prima facie evidence of religious assembly use.

Since all of the uses proposed for the amphitheater would be religious assembly if they occurred within the indoor multi-use (sanctuary) building or chapel, there is simply no basis under this definition for not treating the amphitheater as part of the religious assembly uses.

A religious assembly use may include many different activities, including musical and theatrical performances for the membership of the church; musical performances by youth groups, holiday celebrations, and theatrical reenactments of religious events; exhibit, benefits, fund raising events for the benefit of the congregation, the poor or homeless, or in response to a disaster are not uncommon, such as the recent Halloween floods or wildfires. In addition, many churches host boy/cub scout and girl scout troops, provide language classes, host or promote public meetings/lectures on life/financial counseling, health or on social topics such as human trafficking.

A religious assembly use is a permitted land use in a Rural Residence (RR) zoning district. The LifeAustin Church is a religious assembly use that is a permanent use not a temporary use as described in Section 25-2-921(C) of the Code and not similar a temporary church revival that may take place in a shopping center parking lot, or other temporary uses described in that section which includes Christmas tree sales, swap meets, carnivals, a new subdivision sales office or temporary construction trailers.

As stated previously, the LifeAustin Church buildings, including the amphitheater, are buildings used for religious assembly uses. The church acknowledged in 2008 by stating the same activities that take place in the large indoor building will be the same as the amphitheater building. It was not stated on the original letter from Mr. Conley, nor the site plan or building permit that the buildings on the property would be used community recreational facilities used as defined under City's the zoning regulations. An example of an outdoor community recreational (private) use is the Hyde Park Baptist Church Quarries Multi-Use Facility (4400 Mesa Woods) that includes facilities for basketball, tennis, baseball, softball, volleyball and basketball.

The amphitheater building is a permanent building that is enclosed by a roof and walls and required a building permit. The amphitheater building contains permanent

bathrooms, offices, storage areas and associated permanent seating. It is not occupied by a temporary use as described in City Code § 25-2-921(C). The Appellants' reference to City Code § 9-1-2(5) appears to be an incorrect reference; however, if this is meant to reference to Chapter 9-2 (*Noise and Amplified Sound*), then this section is not applicable because it is devoted solely noise regulations and not zoning use regulations.

Appellants over-emphasize the significance of the occupancy classifications for the amphitheater and incorrectly suggest that it is inconsistent with religious assembly use. They point out that, although the building permit describes the amphitheater as a religious assembly use, the "Sub-Type" lists the building type as "C-318 Amusement, Social & Recreation Bldgs." These are not inconsistencies, however, because the "sub-type" addresses the U.S. Census Bureau building permit survey classification of the structure. It has nothing to do with use of the property from a zoning standpoint. Different uses may be permitted in the same building type; for instance, a school amphitheater building vs. a church amphitheater building.

2. Staff disagrees there is reasonable doubt or difference of interpretation as to the specific intent of the regulations relating to the procedures for filling of an appeal of the administrative decision.

As stated previously, the use determination for the amphitheater building at PromiseLand West Church was issued in 2008 via a communication sent directly to the applicant's representative. When the subsequent appeals were filed challenging the site plan, building permit, and other development approvals, the Director determined that the appeals were not filed within the 20-day appeal deadline established by City Code § 25-1-182(2) because each of the appeals was effectively a challenge to the 2008 use determination.

The Director did consult with the Law Department before making this decision and did not rush to judgement. Nor did the Director in any way attempt to conceal the 2008 use determination, since it was common practice at the time and allowed by ordinance to issue a use determination directly to the requestor without a public notice requirement. In association with their 2011 site plan, the Church offered a restrictive covenant to limit their property. The Director accepted the restrictive covenant as originally suggested by the church in 2008 and saw covenant as an additional tool to enforce the use limitations previously described with the use determination.

This memorandum does not address issues related to the subsequent litigation that occurred between the City and some of the Appellants in this case. It is the Director's understanding, however, that the litigation did not address the substance of the "religious assembly" land use issue or decide the question of whether or not the Appellants met the 20-day deadline for appealing under City Code § 25-1-182(2).

3. Staff believes the use determination would clearly permit the use which is in character with the uses enumerated for the various zones and the objectives of the zone in question because:

LifeAustin Church is a permanent and not a temporary religious assembly use. A religious assembly use is a permitted land use in a Rural Residence (RR) zoning district and which requires a minimum lot size of 1 acre, a maximum building coverage of 20% and maximum impervious cover of 25%. According to the original approved site plan, the church site is over 53 acres, with a building coverage of less than 3% and overall gross impervious cover less than 14%. In addition, the buildings on the property comply with the 35 foot height limitation and compatibility standards heights and setbacks. The PromiseLand West Church is meets the objectives for its zone and would be in character with other civic uses permitted in other RR and less restrictive residential zoning districts (ex. SF-1, SF-2, SF-3, etc.).

Although the size of the church buildings is fairly large compared to most church structures, they would not be out of scale at any location within the City because of the commensurately large size of the 53-acre LifeAustin property. Given the LifeAustin's larger indoor multi-use (sanctuary) building seats 3,500, the 1,000 seat amphitheater size is not unreasonable. At the time the use determination and the date site plan was submitted, the size of churches buildings, including the amphitheater building were subject to administrative approval and no special amphitheater regulations applied to the site. At that time, Staff would have approved a church of a similar scale but of a smaller size elsewhere in the City (ex. 5.3 acre site with church building of 350 seats and amphitheater of 100 seats; or 0.53 acre site with church building of 35 seats and amphitheater of 10 seats), if the zoning district permitted use and buildings complied with heights, setbacks and compatibility standards..

4. Staff believes the previous interpretation does not grant a special privilege to one property inconsistent with other properties similarly situated.

The site plan and building permits were issued for a religious assembly use in permanent buildings (including the amphitheater building) and not for a temporary use set forth in Section 25-2-921 (C). This religious assembly land use was identified on the approved site plan and the building permits and were consistent with the 2008 use determination that stated activities in the larger indoor building that is used as the sanctuary would be "...the exact same type of activities..." that would take place in the amphitheater.

The Code definition of a religious assembly use, as quoted above, also includes the following language: "*A property tax exemption is prima facie evidence of religious assembly use.*" The PromiseLand West/LifeAustin Church qualified for a property tax exemption in 2008 and 2011, as well as today, as determined by the Travis County Appraisal District. Since the church does not operate a private primary or secondary educational facility, a community recreation facility or day care, this portion of the Code definition has added importance since it establishes "prima facie evidence" of the religious assembly use under the Code. The term "prima facie" generally means at first appearance and would signify that upon initial examination sufficient, corroborating evidence appears to support a case. Therefore, the tax exemption supports the religious assembly use determination.

The site plan and building permits do not grant a special privilege under City Code § 25-2-921 (C) for an outdoor religious assembly use, since these are not temporary uses.

Although it is not uncommon for a religious assembly use to allow the use of outside areas for events such as weddings, a sunrise service, a religious celebration, an Easter Egg hunt or Halloween Trunk or Treat. Some religious assembly uses also offer prayer or resurrection gardens that are open to the public.

CONCLUSION

In closing, the use determination that allowed approval of the LifeAustin Church site plan and associated building permits was based on information provided by the church or their representatives that their buildings would be used for a religious assembly uses. The City approvals were limited to permit religious assembly uses and the use determinations, the issuance of permits and the processing of appeal requests that followed were based on the Code in effect at that time. It is clear that not all religious assembly activities are limited only to the interior of buildings, and only religious worship and religious education take place on tax exempt church property.

The City does not have the discretion to deny a development application based on the scale of a project if it complies with the Code, nor does it ability to deny applications based on the likelihood the future Code violations. City Council has changed the Code to require notice of use determinations and Land Use Commission approval of certain amphitheaters in the future, but these regulations do not apply to this BOA use determination appeal.

November 23, 2015

VIA E-MAIL

City of Austin Board of Adjustment
c/o Leanne Heldenfelds
Board of Adjustment Liaison
City of Austin
One Texas Center, 5th Floor
505 Barton Springs Road
Austin, Texas 78704

Re: Interpretation Appeal, 8901 State Highway 71 West (LifeAustin Church), case number c15-20150147

Dear Members of the Board of Adjustment:

This firm, together with the law firm of Metcalfe Wolff Stuart & Williams, LLP, represents LifeAustin Church (“the Church”) in the above-referenced matter. By way of this letter, the Church intends to correct several of the misstatements contained in Appellants’ filings, and bring to your attention several important matters of fact and law that are relevant to your review of Director Greg Guernsey’s decision to allow the Church to build and use the LifeAustin Amphitheater (“the Amphitheater”) for religious assembly purposes.¹

I. Factual Background

The arts, and music in particular, are an essential aspect of the Church’s ministry. One of the Church’s guiding principles is to think and act on the imaginative ideas of the Holy Spirit in all that it does, including the expression of art, dance, drama, and music. In addition to worshiping through songs, music is part of the way in which members of the Church prepare their hearts and minds to hear the word and to respond to that word. The Amphitheater exists to bring transformation to the community through the arts given by the Creator, in an outdoor setting that brings members closer to the Creator. For this reason, each event at the Amphitheater involving the arts is a praise and worship service. The Church also believes that the Amphitheater and the type of modern Christian events it holds helps the Church with its mission to bring people to the Church who likely would not come to a more traditional church. The Amphitheater is a key component in the Church’s mission to spread its seeds of faith. *See* Exhibit A, Declaration of Pastor Randy Phillips.

¹ A property tax exemption is prima facie evidence of religious assembly use. AUSTIN, TEX. LAND DEV. CODE § 25-2-6(B)(41). The Church property carries the EX-XV exemption, which is the exemption code for public property, religious organizations, charitable organizations, and other property not reported elsewhere. *See* <http://propaccess.traviscad.org/clientdb/PopupCodesDescription.aspx?CodeType=Exemptions>. Proof of the Church (and Amphitheater’s) property tax exemption status is attached as Exhibit B.